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TREATMENT OF CRIMINALS

IN INDIA,

BY MAJOR G. HUTCHINSON,

INSPECTOR GENERAL OF POLICE, PUNJAB.

PUNJAB PRINTING COMPANY'S PRESS, LAHORE.

IV
H M
P R E F A C E.

With the greatest respect for that great and good man, the late Sir Henry Lawrence, K. C. B. I dedicate this compilation to his memory, in testimony of the deep interest which he ever manifested in all that concerned the treatment of criminals, and in grateful remembrance of that brief but eventful period during which at Lucknow in 1857, I had the honor and the privilege of being his Aide-de-Camp.

My object is to insure that judicial sentences and prison discipline in India shall tend, not only to the punishment, but to the reformation, of criminals. I regret that, owing to the heavy work of a responsible post, it has been utterly impossible for me to bestow such time and care on this compilation as the subject assuredly merits. Of necessity I could only give attention to it now and then, and amidst constant interruptions; but I trust that its many imperfections will not injure the object I have at heart.

I have endeavoured to place on record, clearly yet briefly, the principles and practices of other countries in the various important measures connected with this subject; to show how India needs their application; and to offer such suggestions as seemed to me likely to facilitate their introduction.

Should any profits arise from this work they will be devoted either to the establishment of a thoroughly practical Juvenile Reformatory, which I yet trust to see flourishing in this province, to be called the "Henry Lawrence Reformatory"; or they will be devoted to the "Henry Lawrence" Asylum for the children of soldiers at Murree.

G. HUTCHINSON, *Major, Staff Corps,*

Inspector General of Police, Punjab.

Lahore, 1st November 1866.

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ON THE TREATMENT OF CRIMINALS IN INDIA.

INTRODUCTION.

Deeply impressed with the absolute necessity of introducing into this country, that great principle now recognized and adopted in nearly every State in Europe, that punishment shall be awarded and carried out, not solely with the view of *punishing* but also of *reforming* the offender; I venture to attempt to draw attention to this very important point, as being one in which all persons must ever have the strongest interest.

An experience of five years of constant watching over the police administration of this province has naturally enabled me to give close attention to the results of our present penal measures; to the principles on which punishment is awarded; and to the mode in which it is carried out. I have also not only examined most carefully almost every work that has been written on this great subject for the last twenty years in England, but, during a short absence from this country in 1864, personally examined the best French reformatory institution at Mettray, near Tours in France; the Irish system as now working in full force under Captain Whitty; and that adopted in England.

It was necessary I should note this, so that my observations might not be with justice considered as being those of a person who had not attentively and for some time studied the subject; or who possessed at best but a theoretical knowledge regarding it. I trust therefore that the views herein set forth regarding the treatment of criminals in India may not be thought presumptuous, or lightly brought forward; they are at any rate supported by the experience of other countries, and I desire to press them with all

earnestness on the consideration of every man who cares for the moral as well as the physical well-being of the mighty masses in this country; who feels that their future is now indubitably being most deeply affected either for good or for evil by the handful of Englishmen whom God in His good pleasure has placed in their high position of trust and responsibility.

Those officers in this country whose duties are connected with either the administration of justice or the prevention and detection of crime, no doubt have had their attention drawn to the important, novel, and very instructive proceedings carried out in various European countries during the last thirty years, with reference to the punishment and the prevention of crime. During those years not only has the most complete change in the treatment of prisoners and the most mighty revolution in criminal jurisprudence been effected, but a vast mass of very valuable and instructive information has been collected.

It is to those proceedings that I now seek to draw attention; being firmly convinced that India on the one hand possesses amongst its millions no such high tone of morality as to render unnecessary the application of those enlightened principles now found to be so valuable in Europe; and yet, on the other hand, is not sunk so low as to be incapable of receiving any benefit therefrom.

CHAPTER I.

FIRST STEPS IN THE UNITED KINGDOM AND
EUROPE.

It is most instructive to observe how England during the last two hundred years has passed through various, and distinctly marked stages in the great work and duty of endeavouring to prevent crime.

The period of general disregard and violation of the law, incidental to an unsettled state of society, and in which the law was indifferently administered, sometimes with noted injustice, sometimes with barbarous severity, was succeeded by a period in which the law was, so to speak, savagely revengeful: in Blackstone's time there were 160 felonies punishable with death. This unhealthy state of the law gradually corrected itself; juries would not convict when conviction produced sentence of death, for stealing a pocket handkerchief off a shop counter, or a piece of linen out of an orchard. I need not in support of the above give here Macaulay's graphic account of the state of England at the beginning of the eighteenth century, nor the many instances in which men and women were sent in numbers to the scaffold for offences adequately punished now by short imprisonment or whipping.

Mr. Walker, Metropolitan Police Magistrate, mentions in a work published in 1835 :—

"At Kensington, within the memory of man, on Sunday evenings a bell used to be rung at intervals to muster the people returning to town; as soon as a band was assembled sufficiently numerous to insure mutual protection it set off, and so on till all had passed. George the 4th and the late Duke of York when very young men were stopped one night in a hackney coach, and robbed on Hay Hill, Berkeley Square. To cross Hounslow Heath or Finchley Common, now both enclosed, after sunset, was a service of great danger."

The Right Honorable Thomas O. Hagan, Her Majesty's Attorney General for Ireland, in his address in 1861 before the National Social Science Association, observed :—

"Hence for a lengthened period grievous barbarities characterized the action of our tribunals. The accused and the convicted were treated equally with excessive harshness, and the scaffold groaned with the mul-

titudes who were sent prematurely to their account—people of both sexes and of every age—for offences often of the most trivial character.

“The softening of manners and the progress of civilization, led by degrees to a continually increasing diminution of this annual butchery; but the Code which authorized it remained with little mitigation or amendment down to even our own time. Opinion mastered law; and the humanity of jurors, sometimes at the cost of paltering with their legal duty and their oaths, refused the wholesale sacrifice of their fellow-men. But within the memory of many of us, the supreme penalty of death struck equally the parricide and the starving wretch who committed a larceny of five shillings. Even in the 18th century the legislature made capital the breach of the mound of a fish pond, the cutting down of a cherry tree in an orchard, and other offences of no greater seriousness. In that century a child eleven years old was executed for witchcraft; a man for refusing to plead was pressed to death in the market place of Kilkenny.

“In vain for many a year the doctrine of ‘Beccavia,’ that crimes are more effectually prevented by the certainty than by the severity of punishment, was urged upon the legislature. In vain was the appeal to the teaching of a sad experience, the wisdom of the statesman, and the mercy of the Christian. Parliament under high guidance stood upon the ancient ways, and the slightest departure from the barbarism of its traditional policy was denounced as full of danger to society and injury to the constitution of the realm. By slow degrees, however, the barriers of prejudice and ignorance were beaten down. Earnest and faithful men arose to assail them; and in the face of frequent defeat and deep discouragement, their mission was bravely pursued, until at last the truth manifested its all prevailing power.”

The foregoing sufficiently proves that crime is not prevented merely by laws of Draconian severity; rather the reverse. Savage crimes are if anything increased by savage laws. The criminal feels he is treated as a wild beast, and acts as if he were one.

Connected with this brief review of England's experiences, the era of transportation requires some notice; for, so far as England is concerned, the first effort at introducing a totally different mode of treating “convicts,” in fact a reformatory mode, was attempted with the unfortunates undergoing sentences of transportation in Norfolk Island. Moreover it was not until “transportation” was impossible, owing to the refusal of the colonies to be any longer injured by the importation of all the vile and worthless of the United Kingdom, that the treatment of convicts was brought under the public eye, and extorted so to speak the attention it has subsequently received.

The punishment of transportation was first introduced into England by Act of Parliament in 1718; convicts were then sent to the American plantations, and when the American war broke out they were sent to Australia. Parliament did consider the expediency of establishing penitentiaries in England prior to sending the convicts to Australia, but no result followed; and transportation was adopted to such an extent that from 1787 to 1836 no less than 100,000 convicts had been sent off, including 13,000 women. In 1853 it was enacted that no person was to be transported whose sentence was not for either life or fourteen years: and in 1854 an Act was passed whereby the convict prisons of Ireland and England could work on legal authority: the object being ostensibly to provide within the kingdom some adequate treatment of convicts in lieu of that of "transportation," then so limited as to be virtually an insufficient mode of disposing of the convicts.

I will not attempt to notice even the great number of excellent persons, from the time of "Howard" in 1775 down to the present day, who have devoted themselves to the improvement of the prisoner and the laws regarding him; nor, though it is most instructive to study attentively all the various modes by which crime has been in other countries treated with a view to its prevention, is it possible in this brief treatise to give an account of them all. I must confine myself solely to those prominent features of this subject which have been developed in other countries with admitted success, leaving all minor points for the present.

Prior to the virtual abolition in England of the sentence of transportation beyond seas, it had long been known that the moral state of the convicts transported, both on the voyage out and in Australia was, as a rule, and as regards a large majority, most injurious to themselves; and that it rendered them most difficult to control. All may read in the clear and forcible little treatise called "Our Convict System," published in 1861 by Miss Florence Hill, how Captain Maconochie, the "Howard" of Norfolk Island, "found it a hell" and left it a well ordered community. The principle

on which Captain Maconochie based all his success was this, that his system gave a prisoner a fair *hope* of ameliorating his condition by his own exertions. It is very important to notice this; it is quite immaterial to describe here the fabric he reared on this foundation, or that which others have raised on the same foundation: they will be noticed hereafter. Here we grasp a first principle, a grand motive power, the power by which Captain Maconochie changed Norfolk Island penal settlement from a hell into a well ordered community; and the principle which, under proper guidance, lies at the foundation of all reformatory treatment. I find Sir Walter Crofton, the eminent man to whom the Irish convict system mainly owes its existence and its success, thus spoke before the Transportation Committee of 1855-56:—

“The state of the Irish convict prisoners at the time when this Act into which we are now enquiring was passed, was as deplorable as it was possible to conceive: the prisoners were morally and physically prostrate in every way. There was a want of the *element of hope* in them, &c.”

At last, with the exception of Western Australia, all our colonies, including the Cape, of Good Hope, positively refused to receive any more of our convicts, so utterly demoralizing was the influence found to be of these unreformed, uncared for and almost incorrigible offenders. The United Kingdom was then forced to take charge of its own convicts, and then the absolute necessity of reformatory treatment became conclusively established.

Subsequently to 1854 we see this principle admitted in Ireland and in England as one of vital importance in the penal treatment of offenders, and it has been fully recognized by the law in England. In Europe we observe the same principle had been gradually and earlier recognized as constituting one of the chief points in all penal laws and treatment regarding criminals. I need not give here in support of my statement the names of the eminent men who on the Continent or in great Britain are specially connected with these reformatory measures, nor transcribe their opinions; they will be found hereafter in this work, but it is necessary

to observe that the discovery of the absolute necessity of treating criminals with a view to their reformation, of introducing the element of hope, was made, not by one country from the experience of another, but in each country by its own sad experience: we find Colonel Montesinos at Valencia in Spain, and Governor Obermaier at the state prison of Munich, Doctor Wichel at the Raube Haus near Hamburg, and the reformatory at Ruysselede in Belgium, Maconochie in Norfolk Island, Crofton in Ireland, M. Demetz and M. de Courteilles at Mettray in France,—all acting on the same principles taught by the same cause, sad experience. The last named institution, Mettray, established in 1839 near Tours in France, has attained such eminent success, and seems so fit a model from which India may largely benefit, that I shall hereafter take further notice of it. In 1863 I personally examined it most carefully, and saw in every branch of its arrangements, its mode of working and training the “colons.”

As each country recognized the principle of the reformatory treatment of its criminals, so, of necessity, its laws were brought to aid the new system. Thus far we may say all countries acted alike; here they of necessity diverged, and each raised a superstructure specially suited to its own people. In the United Kingdom, after immense discussions by parties of every conceivable opinion (for probably no subject was ever more thoroughly ventilated), an Act was produced, whereby not only was adequate and sufficient satisfaction insured for the offence against the law, but opportunity afforded to the offender of ameliorating his condition, during the sentence, by his own exertions—or in other words, the sentence of the law did not destroy that great reformatory power, *hope*, but on the contrary enabled it legally to be used.

The vast importance of this measure cannot be overstated: prior to the Act any efforts of a reformatory nature, based on giving the offender for good conduct in prison any indulgence, such for instance as partial remission of sentence, or lightening of its nature, though perhaps productive of

good reformatory effects, yet had against them the following grave objection :—

That the law and the public have a right to demand, that no sentence passed shall be lessened or mitigated (except under known rules acknowledged by the law), at the mere will and pleasure of jail authorities, and consequently without the knowledge, either of the judge who passed the sentence, or of the public whose interests are affected by the proper execution thereof.

In the United Kingdom, therefore, under Acts 20 and 21 of 1857, the law prescribed as follows regarding sentences of penal servitude :—

| Sentence. | Time which must be passed under detention <i>i. e.</i> , the satisfaction demanded by the law and which may not be lessened. | | | Periods of remission on licence. |
|---------------|--|-----|----------------|--|
| <i>Years.</i> | <i>Years.</i> | ... | <i>Months.</i> | The periods remitted on <i>licence</i> will be proportionate to the length of sentences, and will depend upon the fitness of each convict for release, after a careful consideration has been given to his case by the Government. |
| 3 | 2 | ... | 6 | |
| 4 | 3 | ... | 3 | |
| 5 | 4 | ... | 0 | |
| 6 | 4 | ... | 6 | |
| 7 | 5 | ... | 3 | |
| 8 | 6 | ... | 0 | |
| 10 | 7 | ... | 6 | |
| 12 | 9 | ... | 0 | |
| 15 | 10 | ... | 0 | |

Here we see exactly, the satisfaction demanded by the law without possibility of remission, and the portions which the prisoner by his conduct may so far get remitted as to be allowed liberty, on licence, that is on a ticket of leave which can be revoked at any moment if he misbehaves, and which if revoked involves his being sent back to prison to complete his original sentence, unless again allowed out on a ticket of leave.

On this point Sir Walter Crofton observes :—

“There may be some who question the justice of admitting an interference with the sentence of the judge through any subsequent act of the criminal under detention. I think it better to explain that since the enactment of June 1857, (20 and 21 Vict.) the judicial officers are, at the time of passing sentence, made aware of the course which will be pursued, and that a certain and proportionate part of each sentence can be abbreviated, through the conduct of the criminal.”

Before proceeding to examine in detail the Irish system based on the above, I must notice here how completely the views of all enlightened and deep thinking men, who either by duty or inclination have been brought into contact with criminal classes, or have given their attention to this subject, coincide with the principle sanctioned by this law.

Mills, the author of *History of British India*, says—

“An offence is an act by which a right is violated. The object of punishment is to prevent such acts. It is employed, under the empire of reason only as a last resource. If offences could be prevented without punishment, punishment ought never to exist. It follows as a necessary consequence that as little of it as possible ought to exist.”

Mr. Recorder Hill, in his paper read on 12th January 1863 before the Law Amendment Society, remarked :—

“The principles of secondary punishment may be reduced to three : first, the application of pain with the intention of proving to the sufferer, and to all who may learn his fate, that the profits of crime are over-balanced by its losses. This is the deterrent principle in action. The second principle is what Bentham calls that of *incapacitation*. So long as the criminal remains in jail, society is protected from his misconduct, not by the deterrent operation of fear, but because he has for the time lost the power of offending. The third is the *reformatory* principle. Thus incapacitation deprives the malefactor of his power to do wrong; deterrents over-master by fear his desire for evil doing; while by reformation that desire is extinguished, and is replaced by aspirations and habits which will furnish him with a safeguard against relapse.”

Captain Maconochie, who first tried reformatory measures in Norfolk Island, and with the most signal success, writes “that the immediate and direct object of punishment in every case should be the reform of the criminal.”

The Honorable Lord Neaves, in his address to the Natural Social Science Congress of 1863, said :—

• “But next comes the question, if question it be, whether when criminals are in our hands for punishment we might not do something with a view to their reformation. The answer is clear. Both our duty and our interest require that we should attempt the task.”

The Right Honorable Thomas O'Hagan, Attorney General for Ireland, thus summed up his remarks on "Punishment and Reformation" before the Social Science Congress of 1861:—

"We have gathered from the experience of the past some truths as to the theory of punishment, which have received very general acceptance, and amongst them I think are these:—

"That for all practical purposes human law should deal with crime, not to avenge, but to prevent and to *reform*.

"That merely vindictive and repressive action defeats its own purpose, and increases the mischief it would do away.

"That *severity*, disproportioned to the character of offences, and pressed beyond the point at which it may suffice to check by example, and restrain from repetition, is at once unnecessary and injurious.

"That the justice of human punishment is bounded by its necessity; and while the wise legislator should labor to make it fall with certainty on guilt, and carry it out with unflinching firmness, he should reconcile, so far as may be permitted, the claims of the community to complete protection against crime with the *reformation* of the convict, and make that reformation where he can the aid and the instrument for securing that protection."

The address by Thomas Chambers, Q. C., Common Sergeant of London, before the Social Science Congress of 1862, is so valuable that I give it at some length —

"Whether the deterring of others by example, or the reformation of the offender himself, be the primary duty of society and object of punishment,—or whether it be the emphatic protest made against wrong-doing and wrong-doers by the infliction of punishment,—may still be debated among us. But though these topics have a speculative interest for the metaphysician and scientific jurist, and promise to be fruitful of discussion for years to come, yet happily their determination is not necessary in order to the adoption of practical remedies for crying evils. Reasoners and moralists may dispute, yet philanthropists need not delay to act, and the problems insoluble by argument may be settled conclusively by practice. It may be (I rather incline to that opinion) that the State has nothing to do with the individual except in his bearing on the welfare of society—that any interference with him on other than public grounds is objectionable, and that this doctrine is applicable both to those who obey, and to those who infringe the laws. Hence in dealing with offenders, we are to proceed entirely on the assumption that our treatment of them is to be of a nature determined exclusively on public, and not at all on personal considerations; that no result is to be aimed at which will terminate in themselves. The *final* object in our systems of penal discipline, as in all our other social arrangements, is the good of the community,—its deliverance from some evil or inconvenience, or its attainment of some substantive good. In the case of our criminals, the end sought in our mode of dealing with them, whatever it be, is the repression of crime,—the diminishing the number both of offences and offenders. This is the matter in which the State has a direct interest, and which the State may strive at securing. What is the best means to be adopted for that purpose then becomes the subject of inquiry. What apparatus, or agency, or machinery, is

most likely to thin the ranks and lessen the activity of the criminal classes? That point is not to be determined by any consideration of what is good for them for their own sakes, but of what is good for the society of which they are the pests. To do them good is not the final aim, but to benefit the public. To secure for those who have broken the law and become subject to penalties some personal advantage, is not, I think, a legitimate object of public law, though of private Christian benevolence it may be a plain obligation. But then, admitting to the full the validity of this distinction, suppose that in practice it should turn out to be immaterial. Suppose it should appear that on public grounds alone such a discipline may be justified as shall have for its immediate result the improvement of the offender, and for its remote and ultimate result the advantage of the community. I am not, surely, to sacrifice the latter object, simply because, in the course of attaining it, I confer a boon on the subject of any punitive discipline. This would be madness. It would be nothing less than an abandonment of the social amelioration which is our ultimate aim for the sake of a pure vindictiveness, and in order to deprive a convict of some moral advantage to exclude the community from the realization of its cherished hopes. For it may be the most effective—indeed, the only effective—mode of protecting society, to reclaim and restore the offender. Then, surely, we are not to sacrifice all, lest we should incidentally benefit the few. On the contrary, if by conferring such a partial benefit, I can secure a universal good, I shall readily pursue a course where the means and the end are alike desirable. What mere terror and merciless severity could do, has been tried in all countries—in all ages; nor has the experiment been attended, in any case, by encouraging results. Even capital punishment has been found notoriously inadequate as a means of repressing crime, and has been for large classes of offences recently abandoned with advantage. So, with secondary punishments, it has been found that the harshest and most degrading have not been the most effective. Where their operation has been limited to a term of years, or of months, it has happened, in innumerable instances, that the subjects of them have been thrown back upon society, hardened, more reprobate, more determined on evil than before. Hence the discipline has not only damaged the unhappy subjects of it, but has put into greater peril the very social interests whose security was our professed object. The evil whose excesses you have been scourging grows more virulent under your hand; and the expedients devised for the purpose of relieving society of the depredations of the criminal, without aiming at his amendment, fail, on that very account, to accomplish their object. And this is exactly what our old systems did, as has been shown with a fulness of illustration and a force of argument at former meetings of our Association, which leaves nothing to be supplied on that head. And the failure which attended all exploded systems of penal discipline has not only been abundantly proved, but is now frankly admitted; and the happy change which has taken place in our treatment of all criminals, but especially of juvenile offenders, is the result of the general conviction that such a change was of paramount importance, nay, even of pressing necessity. Even if the amendment of the criminal himself, *for his own sake*, were beyond the range of State obligation in relation to him, yet his amendment for the sake of the society which had been wronged by his crimes, and which was still in peril from his probable repetition of them, would demand his cure. If you cannot cut off the diseased member of the body politic, its being healed becomes the obvious and only (as it is plainly the best) result to be aimed at.

It has been urged as an objection to the modern mode of dealing with convicted persons in a manner intended and adapted to restore them to moral health, that it is founded on a spurious philanthropy and sickly sentimentalism; that it betokens an inadequate appreciation of the guilt which attaches to crime, and displays more sympathy with the offender than hatred of the offence; that the power of rebuke is thereby weakened, while the softer emotions are quickened into morbid action, and gratified at the expense of other and more manly virtues. It is said that the primary duty of the judge is to vindicate the broken law by the infliction of penalties, and that this should be done in a form and manner to mark most forcibly the detestation which society has of the crime, and its resolution to punish; that the transgressor should be stigmatized as well as chastened, and visited with reprobation as well as punishment; that it is altogether a mistake to make any effort to restore the convict again to society as reclaimed, and fit to resume his place among the unconvicted; that, on the contrary, he should carry a brand on him ineffaceable, so that in his person and condition to the close of his life there should be plain and palpable evidence of the hatred and indignation due to his crimes. Nay, that it were better finally to expel the offender, even, if necessary, by hurrying him out of existence, rather than by the methods of healing, and by the discipline even of an experienced benevolence, to endeavour to win him back to virtue and to society. Now, if it be admitted that there is in this hostile criticism of our modern procedure in relation to convicted persons, some element of truth; yet it is plain that all such objections fall to the ground, or become nugatory, if the course complained of can be justified on reasons quite independent of any considerations of mere benevolence. If it can be shown that self-interest, the protection and welfare of the community—our own safety and security—demand for the culprit a discipline just such as that which Christian philanthropy and compassion might have suggested, so that the lowest motives concur in demanding what the highest would have prescribed; then all objections to the adoption of such a course on the ground that it puts the well-being of the offender before the well-being of the community, and makes kindness to him injustice to the State, are seen to be futile. If a corrective discipline is not only better for the prisoner, but better also for the public,—if his being healed is a matter of great moment to society as well as of vital importance to himself, then it must be admitted that Christian philanthropy and true patriotism are both alike consulted in efforts to reclaim the culprit, and both alike rewarded should those efforts be successful. If this point be established, I no longer put my hand to the work of reformation with hesitation and trembling, fearing lest I should weaken the defences of society or the sanctions of law by showing kindness to the criminal; but I set about it with confidence and courage, assured that what Christian precepts and manly sympathies and social interests alike dictate may be done without apprehension that any sound principle will be infringed, or any valuable object imperilled, by the course I adopt. It becomes, then, a question of fact to be determined by evidence, a practical experiment whose result is to be ascertained by experience, whether a reformatory process is advantageous to the public; whether punishment should be a discipline with a view to amendment—or vindictive simply; whether we may notched balm instead of venom on the edge of the sword of justice, so that while it wounds it shall heal, and its severest inflictions minister good to the sufferer, and through him to all.

Lord Brougham, in his address to the Social Science Congress of 1864, congratulates the members on the final triumph of the reformatory movement in England, and thus remarks:—

“No subject has more engaged the attention of our Association in all its branches than the treatment of convicts. At our first Congress, in 1857, papers were read on the Irish system; and it formed next year the main topic of the very able and interesting address by Lord Carlisle, Lord Lieutenant of Ireland, as presiding over one of the Departments. We have at this meeting deeply to lament his absence, from ill-health, which every friend of the country must hope may have a short continuance. At the Dublin Congress most of our members had an opportunity of fully inspecting Sir W. Crofton's proceedings, and all formed a decided opinion in his favour. Last year, some alarm was excited by the opposition in high quarters, (countenanced by the Home Office) to its introduction into this country; but this was allayed by the reports of a Royal Commission, and of a Committee of the House of Lords; and though similar attempts were afterwards made in the same quarters, there is happily an end of all doubt upon the matter by the Penal Servitude Act of last Session, which places the principle so strenuously maintained by us beyond the reach of further disturbance. The opposition of the Home Office is abandoned; the Act enforces the most important of the recommendations in the report of the Commission and of Lord Carnarvon's Committee, and that office has shown a praiseworthy disposition to give up its former prejudices and fairly and firmly to execute the Act, in the regulations issued under its provisions. The controversy of years thus comes to an end, and convict treatment is brought into agreement with the intentions of the legislature in 1853, or, in other words, the Irish system. On this we may congratulate our worthy colleague, the Recorder of Birmingham (Mr. Hill), who first among us broached this subject in 1857, having made himself acquainted with the system upon the spot. Unfortunately he is not here; but he has sent an able and most instructive paper, which will be read in the Jurisprudence Department, and of which advantage is now taken in this Address.

The treatment of convicts, with constant purpose of reforming them, deviating neither into indulgence on the one hand nor unnecessary harshness on the other, their supervision after their release, both to protect the community against the danger of their relapse, and themselves against unjust suspicion and consequent persecution, and to afford them some aid in obtaining employment under the all but overwhelming disadvantages with which they return to society; these, to use Mr. Hill's words, are the principles now accepted, the principles of the Irish system. Its success is proved by the experience of eleven years. It has been approved by the most eminent jurists on the Continent, and condemned by none. At their head must be placed our learned colleague, Professor Holtzendorff, of Berlin, who joined us in the examination of Sir Walter Crofton's premises, at the Dublin Congress. Next, we have the approval of Professor Mittermaier, of Heidelberg; M. Davissies de Pontes has described it in the *Revue des deux Mondes*; and Van da Bruggen, late Minister of Justice in Holland, adopts it. M. Massorgy, a French judge, who has long studied the subject, pronounces strongly in Sir Walter Crofton's favour; and M. Cavour had begun to act upon the Irish system just before his lamented death.”

It is not possible in this brief pamphlet to quote one half of the many men of all countries who support cordially this great movement; but I trust the few quotations I have given, will sufficiently establish the principle I earnestly seek to see introduced into this country—namely, that the reformation of the offender shall be recognized by the law of the land as a principle to be most carefully preserved and worked out, not only as a part of all sentences to penal servitude, but of our prison discipline.

I have shown how in the United Kingdom this principle is specially recognized in Act 20 and 21 of Vict. 1857—how therein a certain defined term of detention *must be* undergone by the offender, and that no power or authority save that of course of the paramount authority in the land, can shorten by one hour that term of detention. I have shown that the prisoner can by his own exertions not only mitigate the nature of the last portion of his sentence, but can also obtain a remission of the term of detention during which the law does not insist on his being actually in prison. I have briefly sketched the various phases through which England has passed as regards the treatment of her criminals. How severity of punishment alone did not prevent but rather produced crime. How the transportation era, greatly as it relieved England yet did so only temporarily and as a palliative measure; for, as it also was carried out without any organized attempt either in England or in the Colonies at reforming those transported, so the colonies at last refused to have those hardened and apparently incorrigible criminals.

The necessity of providing for, and punishing convicts within the limits of the United Kingdom, forced so to speak on the public and on the Government, the equal necessity of attempting some reformatory treatment towards these convicts. In Ireland under Sir Walter Crofton the reformatory treatment has attained more success than in England, and after an experience of 13 years is pronounced to be and is universally admitted to be, a decided success. The evidence of the many distinguished foreigners mentioned by Lord

Brougham shows how carefully the system has been examined, and how highly it is appreciated.

I cannot here enter into all the differences between it and the English system—they can all be read in the report of the last Parliamentary Committee held on this subject at the time when the abuse of the system “of ticket of leave” created such a panic in England. I may note however that the result was very beneficial to the Irish system; for the most impartial and rigid examination by the Parliamentary Committee not only detected the errors of the English system which gave rise to the panic, but proved more than ever the sound basis of the Irish mode of working, and the decided necessity and wisdom of upholding it with all the power of the law.

CHAPTER II.

THE IRISH SYSTEM.

I have myself personally seen the Irish system in full working under the able direction of the present Director, Captain Whitty; and as I am convinced that much, though of course not all, of its measures may with exceeding wisdom and benefit be at once adopted in this country, I proceed to describe as briefly as possible, the measures carried out under that system from its commencement; and to show its present mode of working: for all the steps taken by Sir Walter Crofton are full of instruction for those in this country who would attempt anything approaching to a reformatory, yet penal, treatment of offenders.

I have before given his description of the prisoners when he commenced, but it is worth while repeating it:—

“The state of the Irish convict prisons at the time when this Act into which we are now enquiring was passed, was as deplorable as it is

possible to conceive ; the prisoners were morally and physically prostrate in every way ; there was a want of the *element of hope* in them, of education, and of everything we could wish to find in prisoners."

His first steps were to at once relieve the prisons of their overcrowded state, and reduce the number of the inmates to that which was consistent with discipline, with health, and with his reformatory measures. He then separated once and for ever the juvenile from the adult prisoners, and recommended and obtained sanction to the erection of what he called a Penal Reformatory, in order to make it as distinct as possible from the general character of a Penal Prison.

The state of the education of the prisoners next received his thorough examination. Two well selected men were appointed, and he recommended their being sent at the expense of Government to visit the different penal and reformatory establishments in the country, so that they might learn the sort of principle he expected them to act on and carry out.

Having thus so to speak, cleared his ground, Sir Walter Crofton then gave form and force to his great principles :—

I. Individualization in treatment.

II. An intermediate stage of treatment between imprisonment and absolute liberty, whereby the prisoner is fitted for and rendered capable of using liberty for his own benefit and that of others.

III. The progress of the prisoner to amelioration of condition and to liberty, depending on the prisoner himself ; on his own exertions.

Now these are principles of immense importance, and admit of universal application.

Regarding the first, individualization, Sir Walter Crofton thus spoke in 1861 :—

"We are not to be deterred by the reckless, criminal, and almost revolting aspect too often presented to us in the appearance of the adult offenders ; but we are to consider with all humility, that these hard lines

and scowling aspect have been accumulated by a life of antagonism to all that is good, generated in some part by an alienation from *all that is kind*.

“Let us inquire what can be done, and let us see what has been done to attain so desirable an end as the amendment of the adult criminal; whether the principles which have proved so successful with the young may not be applicable also to the more advanced in years?”

“Can we yet *individualize*, and seek after that which is good in every person old or young, and foster it, and under the blessing of God bring it to maturity?”

“Can we not wrestle, and struggle, and strive to eradicate that which is evil? Can we not examine the faults, weaknesses of character, and to the best of our power make their opposites the road to advancement? Do we not know that the bane of the criminal class is self-indulgence, idleness, and a want of self-restraint? By therefore placing a *premium* upon *self-negation*, *industry* and *self-restraint*, and making these qualities the grounds, the *felt* grounds of the criminal's advancement, you afford to him a good and reformatory training. It may be so in a greater or a less degree to individuals, but it must be so in a degree to all. By the same process, his *bad* and more natural qualities may be made to retard his progress to the goal all desire to obtain, viz: liberty.”

Regarding the second—the intermediate stage. He felt that he could not in justice to the public nor to the convicts, allow the power given by the Act, of giving liberty on licences, to be put in force, until some steps had been taken to prove that the men to be conditionally liberated, were in a fit state to be so treated—and that therefore it was absolutely necessary to introduce some system of restraint between actual confinement and positive liberty, in which the fitness of a prisoner for the privilege of liberty on “licence” could be tested. He observes:—

“What the Governor of Western Australia thought that he could not do in Western Australia, viz: to give them tickets of licence, we felt, for similar reason as directors of convict prisons, we could not recommend in Ireland. The same feeling which prevents our inflicting on a colony convicts who have not been subjected to a proper course of prison discipline, also precludes our bringing forward prisoners for discharge in this country on tickets of licence, as in England.

“We consider such ticket of licence to be a sort of guarantee to the community, that in consequence of a prisoner having been subjected to a proper course of prison discipline and reformatory treatment, he is considered a fit subject to be received and employed by those outside the prison.

“Such reformatory course *not having hitherto* been pursued in this country, we have not felt ourselves justified in recommending the issue of tickets of licence.”

Subsequently, his system having had some little time to work, and feeling he had some grounds for issuing the licences under proper safeguards, he thus writes :—

“The plan is, by the institution of intermediate establishments between the prisons and the world. We found that men discharged out of prison in the ordinary way were *perfect children*; they did not know what to do; they had not been *thinking for themselves* for years, and were dependent upon every person they came near; and whatever might have been their intentions to reform, the moment they were outside the prison they fell into their old evil associations again and were quite astray as to what they should do. This was partly what induced us to recommend a system of intermediate establishments, we thought also that we should be enabled to place them in a position in which the community would be rather more satisfied with the *test of their reformation*; for unless the community would employ the discharged criminal we felt that whatever we might do in prison, the difficulty was not solved. It is quite clear from what has occurred in England, and what has been going on for some time that *that* has been the great difficulty. “The people are not satisfied without a test of a man’s character; however exemplary you might term him and consider him in the prison, where he is watched by prison officers and every one around him, still it is not considered by the world as satisfactory as if he were placed in a position where he would be exposed to temptation; we therefore recommend the institution of these establishments, where the men would have greater freedom of action. In recommending these establishments we found that there was no new principle to be tested as to the treatment of criminals, we were merely adopting what had been found successful by philanthropic institutions in this country and on the continent.

“All that was novel was its application to the convict establishments; and as the success of the philanthropic institutions which had been tested in this country and on the continent was dependent upon *individualizing*, and acting on men in *small numbers* through moral agency, our experiment, if I may so term it, was how we could adopt prison machinery, that is, the officers of prison establishments to become moral agents.

“In consequence of the vacancy of a School-master we were enabled to make a fresh appointment which we termed that of a lecturer, to the institution in Dublin. He was a person fortunately with a speciality for the calling, and was practically conversant with the different reformatory institutions here and on the continent.

“There was therefore no difficulty in that respect; but we had to adopt the existing prison officers as our trade instructors, and as we hoped, our moral agents; and *there* was apparently our difficulty. A shoe-maker instructor was put over his class of shoe-makers, and told that he was to be responsible not only for the industry of the men under him, but also for their character; that he was to make himself conversant with all concerning them. The same was told to every man in charge of a class; the tailor of his class, the carpenter, and so on. They were informed that during the time of instruction at the trades they were to converse with the prisoners; allude to the subject of the lecture of the preceding evening, which they all attended, and in every way to act as *moral agents* throughout the number of hours that they

were with them ; in addition to which they were to aid in procuring employment where they could do so outside the prison for the men on discharge."

Regarding convicts in these intermediate establishments, he observes :—

"The results so far as I have ascertained are most satisfactory, so far as regards the freedom of agency which these men have to do wrong in the establishment ; we have on several occasions tried them in this way. I have employed them when public works have required it.

"A carpenter having been required at the model prison for some time, I have tried the experiment, if I may so term it, of sending one of these men every morning to his work, *through* the city, nearly two miles off and back again to return to the lecture in the evening. And he has done this for nearly two months every day by himself, no warder with him ; and passing by the public houses, he returns regularly and performs the day's work both to the good of the public service, and to the satisfaction of the Governor of the prison where he is working.

"I contemplate other advantages as likely to result from the system besides those already mentioned ; and in considering that system it was with a far wider view than merely as regarded tickets of licence.

"We believe that it would be a substitute, and a very favorable substitute, for any general system of shortening sentences ; it has been some time generally felt that an uncertainty with regard to sentences is a great evil. However convenient (and I quite acknowledge the convenience) it may be for prison authorities to hold out, as an inducement to good prison conduct, that the prisoners should lose 25 per cent. of their punishment, or be released at the end of the third year instead of at end of the fourth, I cannot think that such a course will tend to genuine reformation.

"I should be unbelieving in the reformation of any man who would require so strong a stimulus as to be let off one-fourth of his punishment to induce his reformation ; I should infinitely prefer to see that man with a well modified system of imprisonment at the termination of his sentence (such as that which I mention) in a situation where he can be *tested before* he goes out.

"I should hope that that would be a sufficient stimulus for any good prison conduct ; if it was not, I should be very doubtful of the reformation of the man."

The third great measure introduced, and which I put last as it carries us at once into the detail working of the system ; is that by which the progress of a prisoner is regulated (and therefore his condition ameliorated or otherwise) by his own exertions, and shown by the *marks* he attains.

To see clearly how this system is carried out, it is necessary here to describe the various stages of discipline

through which a prisoner must pass, before he can obtain the conditional liberty which is the result of his own exertions.

The following is compiled from Sir Walter Crofton's own account of these stages, as given in that most valuable work lately published by Miss Carpenter, a work which places the whole subject before the reader in the most complete form, and which all should read who seek for information on the reformatory question.

There are three stages or distinct modes of treatment which a prisoner must successively pass through, and in all of which his progress depends upon himself.

First.—That of cellular confinement for 8 or 9 months.

Second.—That of association, in which his progress towards the next stage is shown by marks.

Third.—That of comparative liberty, called the intermediate stage, or the stage between absolute confinement and liberty on a licence, and in which stage there are no marks.

Detailed account of each stage :—

“*First Stage.*—Separate confinement in a cellular prison, for the first eight or nine months of the sentence; whether the period is eight or nine months or even longer, depends upon the conduct of the convict. If his conduct is quite unexceptionable, he would be entitled to be removed to an associated prison (second stage) in eight months; as soon as he has entered it is distinctly explained to him, that the period of his detention in that separate cell will depend upon his own conduct. If he is perfectly quiet and orderly he will be completely isolated even from prison society only for eight months. Should he be less well behaved the period will be full nine months. Should the criminal fever be upon him in a chronic form, stimulating him to indulge in the excitements of violence, in brawling, striving to communicate with his neighbour, or even in attacking the gaolers, he is soon made to feel how utterly powerless he is, not only by the walls that box him in, but by the reducing of his food to bread and water, and even by flogging. He works alone, not often visited by any one, and with ample opportunity for meditation and repentance during his nine months. But he is allowed to have hope of the future;—a hope to be realized by himself. The shortening of this period of his separation depending on his good conduct, he knows that when it shall have ended he will have still further opportunity of improving his condition by his *own endeavors*. This expectation produces its natural result in his quiet and orderly demeanour and his obedience to authority; in most instances the period of his cellular confinement is accordingly abridged. During his stay he is one hour every day at school, but there is a great deal more taught

him than ordinary school instruction ; he learns the whole scope of the convict system in Ireland. And when I say that he learns the whole scope of that system, it is an important matter that he should know everything that will be done with him with reference to his marks, how his progress is recorded, and how much depends upon his own exertions in every stage to improve his position. This is made the subject of school lectures. The convicts are called up and on a black board are required to illustrate the mark system, and to explain what will be done with them *after they are out*. He learns the whole bearing of the Irish convict system, by means of scholastic instruction ; that he can only reach the intermediate prison (a special feature and a third stage in the system) through his exertions, *measured by marks in the second stage* of the system. As the liberation of the convict within the period of his sentence depends upon the date of his admission to the intermediate or third stage of the system, it is manifestly to his own interest, as it is the interest of those placed over him, that he should be well informed upon this point. There is a strong mental impression made consequent on this information. As the convict attains knowledge of the system he feels that within certain limits he is made the arbiter of his own fate. Antagonism to the authorities placed over him gradually disappears, and in its stead rises a conviction that there is a co-operation, where he had formerly anticipated oppression. The first stage will have done good work if it has succeeded in planting in the mind of the convict, that there is an active co-operation existing between himself and those placed over him. They are made perfectly aware of the police arrangements of the country, and I am satisfied that these arrangements being impressed upon their minds at the commencement of their sentences, induces on their parts a feeling of *co-operation* with the system ; they feel that they cannot pursue crime to the extent which they formerly did with impunity, and I am sure that this knowledge makes a very great impression on the general body of prisoners.

“ In Ireland this first stage is made very penal by the omission of meat from the dietary for the first four months. This was at first tried as an experiment. It was my own opinion that the convicts had a larger dietary when in separation than was necessary for them. There might be some reason for giving them a better dietary when they were in association on the public works ; but in separation it did not appear to me to be necessary. I called upon the medical officer to try an experiment for two months with an absence of meat from the dietary ; he tried that experiment, and then I had another experiment tried for three months ; and at last we attained four months. When I left Ireland, four months without a meat diet had been in use for some years. I am not at all persuaded in my own mind that four months need be the maximum for the absence of meat. My own opinion is that if the convicts were given meat one month before they go to the associated labour prisons it would be quite sufficient for them.

“ The absence of interesting employment during the first three months is a feature which is peculiar to the Irish system. I will give the reasons as clearly as I can, and explain why the *absence* of interesting employment was *necessary*. What I mean by interesting employment is, the teaching men trades when they come into the prisons. My observation was, that I found them all at work in their cells, learning shoemaking and all kinds of trades ; and requiring, because very few of them in proportion were tradesmen, the attendance of the trades warders to have constant intercourse with them in order to obtain instruction.

Now we have erected these prisons at an enormous cost for the purpose of creating, as I hope, *depressing* influences upon the minds of these men, *before you work upon them in other ways*. I felt that if they could converse in order to receive instruction with the warders, during nearly the whole of the day, the warders coming backwards and forwards wherever they were required, the effect of the punishment of isolation would be very materially sacrificed. A change was made and they were given for the first three months oakum to pick and nothing else. To the public there could be no gain in trying to teach these employments; for what is done with these men afterwards? They were sent nearly all of them to the public works prison; and these men were, immediately to be made stone cutters and laborers, whom we had endeavoured to make cobblers at a sacrifice of material, and still worse of the *depressing* influence for which these prisons had been built. That in most cases a decidedly depressing effect was worked upon the prisoners by this treatment, in the first three months at Mounjoy prison I have no doubt; and not only from my own observation, and from the observations of the Governors and officers of prisons, but from information obtained from the convicts after their liberation; a natural consequence I think of less diet, and the absence of what I have called interesting employment, which had the effect of keeping the separation more distinct for a period of time. After three months those who had been tradesmen, that is shoe-makers and tailors, who did not require any special instruction, were set to work at their trades; others who had no trade, were employed in mending the sheets of the prison establishments; mending clothes, and in boot closing; employments that do not require any supervision on the part of the officers; but they were *not* taught any trade.

"Second Stage.—This stage is divided into four classes, viz: the *third*, in which the convict is placed on his arrival from the first stage.

"The second, the first, and the advanced or A class. The peculiar feature of the Irish convict system in the second stage is the institution of marks to govern the classification.

"The mark system is a minute and intelligible monthly record of the power of the convict to govern himself, and very clearly realizes to his mind that his progress to liberty, within the period of his sentence, can only be furthered by the cultivation and application of qualities *opposed to those* which led to his conviction. The maximum number of marks each convict can attain monthly is nine, which are distributed under three different headings, viz: three for *discipline*, i. e., general regularity and orderly demeanour; three for *school*, i. e., the attention and desire for improvement, or industry in school; and three for *industry at work*, and *not* skill which *may have been previously acquired*.

"For instance, it may be quite possible for an ignorant man, if learning his letters to learn them industriously, and in that case he would get his maximum number of marks; while another man who could read very well, perhaps would not get them. When they leave the separate prison of the first stage they go into the third class: they begin low down in that class, on the ground that in separation there is little opportunity of doing much amiss; it does not afford the same test as other prisons. * "

* That is to say, a prisoner brings nothing to his credit *towards marks* in the third class, his efforts in this class first begin to secure for him "marks."

"It will be possible for a convict to raise himself from the third to the second class in two months, by the acquisition of (18) eighteen 2×9 marks; from the second to the first in six months if he has attained $(6 \times 9) = 54$ marks in the second class; and from the first to the A or advanced class in twelve months, provided he has acquired $12 \times 9 = 108$ marks in the first class.

"When the convict has reached the A class his progress is noted monthly as A 1, A 2, &c.

"When the convict attains the A class he is employed (although still in the second stage of his detention) on special works, and kept apart from the other convicts. His school instruction and lectures take place in the evening.

"The moment a man attains a position in this class he is put into a detached portion of the prison, and kept there under a different system. This class have their meals and work together; they are employed on special works, and have more work because they have school in the evening; they are dealt with specially in every way. The 1st, 2nd and 3rd are worked together. They are in a distinct building.

"I can record from actual experience that the marks are of the utmost value: that they are the means of acting upon a man as an individual, and of realizing to him his own position and his own means of progress; I know of no other way in which you can equally produce that effect upon him. I am quite satisfied that wherever the system of marks is tried it will succeed.

"There are four persons who are connected with the appointment of the marks; viz: the Officer of the gang, the Schoolmaster, the principal Warder, and the Governor; and with regard to the convict, he has the means of seeing the Director as to anything which he believes to have been unjustly noted against him.

"Now, however, trifling this 'mark system' may appear to those not conversant with its operation, it will be found in practice to realize to the mind of each individual very clearly and fully his progress in self-government, and in other desirable qualities. There is not an officer in the Irish convict department who will not bear witness to the intense interest taken by each convict in the attainment of his marks, and the jealous care with which he notes them. No power of *indulgence* is entrusted to the officers of the prison; the system itself is humane, considerate, careful to secure the utmost amount of *hope* and improvement for the prisoner; and his best reliance consists in the most faithful and strict execution of the system. Any departure from it by the officers would be to embezzle for the benefit of an individual the moral fund available for the whole class. This is all explained to the man in language adapted to his state of education and intelligence; he is made to feel that he is himself the true regulator of his own condition in the class, and of the period of his leaving it.

"Thus even in the ordinary prison, the men themselves become conscious and active coadjutors in carrying out the system under which they are disciplined. By degrees the prisoner is removed from mere separate detention within the four narrow walls that form a kind of live tomb, to live and breathe in the company of his fellow creatures; he does this with a newly acquired sense of moral

necessity, and with the evidence on every side that others as well as himself appreciate the promotion and comfort derivable from good conduct.

“Every circumstance by which he is surrounded contributes to enlarge and strengthen this influence. As he makes his progress, while yet within the walls of the ordinary prison, the stamp on his own sleeve indicating his class and the number of marks he has earned, and the numbers on the badge of those with whom he is associated, are a memento that he has made only so much progress, but still so much. He knows that his opportunities are widening as he goes. He is aware that as he attains promotion the fund lodged to his account is growing in a higher ratio and will grow yet more largely and rapidly. At every step in his advance it is explained to him that he is gradually marching towards the comparative unrestraint of the intermediate prison, whose increased comfort and freedom he is able to appreciate from the progressive experience which he has already had in the ordinary prison. Even the countenances of the companions around him will speak in the same eloquent spirit; for there is no greater evidence of the change worked in the race by this hard matter of fact discipline, than the altered expression of the general physiognomy.”

Reviewing the previous stages, Sir Walter Crofton observes :—

“In the first prison the convict has acquired habits of industry, either in the prosecution of his own trade or in some simple occupation afforded to him. He has gone through a certain amount of schooling, tested under able teachers by periodical examinations which serve to call forth his own faculties and the *consciousness* of them. He is associated with his fellows, under discipline, in the workroom, the schoolroom, in the class, and in the chapel; and he has thus been gradually accustomed to regularity of life and to a regulated state of thought. He has been made to feel how completely his condition and prospects depend upon his own conduct; and at every stage, if he has encountered any difficulties of comprehension, they have been cleared away for him by the explanations of the prison authorities.”

A remark by the Chaplain of one of the intermediate establishments may well be entered here :—

“It appears to me to be a very important feature in this system that, as each man advances a stage in his course towards reformation, he is at each stage *removed to another prison*. The very fact of his being thus transferred to a new abode gives to him the idea of *reality in progress* which no nominal promotion would make him feel while he remained in the same prison. Every such removal he feels to be a *real, sensible* step towards liberty, and the results are obvious.”

Sir Walter continues :—

The third or intermediate stage.—“But thus far he has felt under coercion; the force at first brought to bear upon him was in its character purely penal. In the earlier stages, after his release from constant confinement in a separate cell, the penal element has been largely commingled with tuition and industry; and throughout there has been ceaseless res-

traint and coercion ; the latter, perhaps of a moral kind, but not the less distinctly exercised. According to the old system, even of improved prisons, the convict was thrown upon society fresh from these coercions and restraints ; without character, he confronted something worse than suspicion, often hopeless repulsion ; the newly restored liberty was accompanied by fearful temptations to relapse into crime, the promptings that way being almost justified by common sense, through the utter despair of finding honest employment. Was it not possible to meet these difficulties ? To soften the transition from perfect restraint to perfect freedom ? To shew that the prisoner could *continue* his better habits even with diminished compulsion, and thus to provide him with a *character from his last place*, though that place should actually be a prison ?

“ The thing wanted, was a probationary stage to act as a filter in distinguishing the reformed from the unreformed.”

Sir Walter devised two intermediate establishments to meet the wants of his two distinct classes, namely, the agricultural and the manufacturing ; and to give to each class a probationary stage. For the first, the agricultural class, he obtained a tract of common land near Dublin, and his operations are thus described by Mr. Hill, the Recorder of Birmingham :—

“ At Lusk (fifteen miles from Dublin) I found a body of *intermediate* men engaged in forming a garden on open heath land, a large tract of which is to be brought under cultivation by convict labor. Their dwelling, to be supplied with vegetables from the garden, is constructed of corrugated sheet iron, with an interior lining of boards for warmth. It comprehends two distinct erections, each consisting of a single spacious room, which by the slinging of hammocks becomes at night a dormitory. One of these rooms is by day their kitchen and house-place ; the other their chapel, school lecture room, and library. Each of these two compartments is calculated to give sleeping room to 50 men. They are capable of removal at a slight cost, being light, readily taken to pieces, and as easily reconstructed ; consequently they are well adapted for temporary stations like this, which is to be the residence of convict artificers engaged in building a juvenile prison about to be erected in the immediate neighbourhood. Iron edifices like these have been some time in use at the forts, and experience has proved them to be very comfortable habitations. The portability of these rooms will overcome the difficulties which have been experienced in employing bodies of men at tasks which are completed within short periods of time. Not being prisons however, they are only suitable for convicts who can be held to the spot by *moral* restraints. But *intermediate* men are striving to acquire such a character as will recommend them to employers, and thus accelerate their discharge ; consequently desertion rarely if ever occurs : I heard of no instance in which it had been attempted.”

• A writer in “ the Cornhill Magazine ” thus graphically describes a visit to Lusk Common :—

“ A few weeks since I found myself with two friends traversing a newly reclaimed common in an agricultural district some fifteen miles from Dublin. A very short time ago the place was all but uninhabited,

the heath being in possession of a few squatters, on sufferance, who had been tempted to it by the immunity of their class, the absence of rent, and the quality of the soil. More recently however, the ground had been required for a particular purpose. A body of men under an energetic leader were brought to subdue it with the plough, and the old occupants were dispossessed, not entirely without the remonstrances or threats of resistance. Under the newly arrived improvers the squatters disappeared from the scene, the undulating surface of the common was converted into cultivated fields, and laughing Ceres re-assumed the plain. The spot had not quite lost its desolate aspect; although there is a public road through it and a few buildings in sight, there is still a broad expanse so devoid of any marked feature, that guide-posts are necessary to point the way of the wandering laborer who desires to return home.

"The work is advancing under the vigorous industry of some fifty men who are employed on the estate, and who may be seen on any working day of the week at their labors. And who are they that are thus in our own time colonizing the ancient soil of Ireland and annexing it to the conquests of modern agriculture? They are convicts under sentence of penal servitude. Yes, that band of fifty men, clothed in the *ordinary garb* of rustic laborers, peacefully obeying the orders of two foremen, are men whose circumstances subjected them to prison, and to the discipline of a transient slavery. There are indeed no chains, there are no military guards, not even gaolers to restrain them; no fences, which they are not in the hourly habit of passing, break the broad expanse of the common, with its widely separated guide-posts pointing the way to the huts which are the prisons of these men. But there is something else far more potent.

"It was while I was engaged in surveying the system of discipline of which the colony at Lusk forms only a portion, that I learned the revolt in Chatham prison. The details of that violent out-break amongst the luxuriously fed Chathamites, who were in open mutiny and refusing work, were told me on the very day when I was surrounded by convicts wholly without chains and hard at work in cold and rain; and with the Chatham reports fresh in my mind I heard the Civil Officers of this open prison at Lusk telling me how the laborers under them, living, as I shall show you, upon hard fare, are steady workmen, regular in their duty, and so zealous that while they are actually *purchasing bread* as a luxury, they will pursue their toil after the regular hours in order to help in securing the harvest.

"This is the result of a system which, with the erring man in the iron grip of the law, has subjected him to something stronger than manacles or lash, and yet substituting a truly *correctional* for a merely penal handling, has made sweet the uses even of the bitterest adversity—the adversity of the criminal gaol."

Miss Carpenter thus describes her own visit:—

"There was nothing to attract any attention. Before us was a large common, part of which had been reclaimed, and gave evidence of much skilled labor having been bestowed on it. Other parts were perfectly wild, and we saw a number of men working very steadily at the drainage of it. No one would have noticed that they were not ordinary laborers; they wore no prison uniform, but the ordinary peasant dress; they appeared under the control of no gaol official, and no turnkey was watching them; they were not handling the pickaxe and spade with the unwilling air of men who were under compulsion to perform a certain amount of

government work, but like free laborers who would gladly do as hard a day's work as they could. It seemed incredible that these men were prisoners, and even more, men convicted of no ordinary offences, but who were under long sentences of penal servitude; such men as those who had burst forth into violent rebellion at Portland, and who had been more recently at Chatham controlled only by extraordinary severity, after the most ferocious out-breaks and outrageous attacks on the officers. Looking at these men we could hardly, as an English Magistrate remarked, believe what we saw with our own eyes.

"The only buildings provided for from fifty to one hundred convicts consisted of two large huts of corrugated iron, each of which would contain accommodation for fifty men and one officer; the beds being so arranged that they could be put out of the way and the room converted into a dining and sitting room.

"There were a few simple tenements for the residence of the superintendent, and for the cooking and bathing of the men; but everything was as informal, plain, and inexpensive as possible. Captain Crofton pointed out some small houses on the outskirts of the common. Those he told us, after withdrawing us from the hearing of the men, had been intended for policemen, as it had been considered quite unsafe for a body of criminals to be left with no police near. The houses had never been used; there had never been occasion for any police agency. One superintendent only has charge of each hut.

"The few *laborers* employed *with* the men at work live in separate houses near.

"After inspecting all parts of the premises, and satisfying ourselves that everything was as open and free as a common farm, and that the men were controlled only by the strong moral influence which, combined with *strict discipline* and *steady adherence* to well devised laws, constitutes the essence of the system, we felt desirous of learning how far these men were or rather had been the same daring criminals who fill our Government prisons in England. Various questions on this subject were put to Captain Crofton by the gentlemen present, who showed us a table of the offences which had been committed by the very men among whom we had been walking without fear or suspicion. We were astounded to find that they had been guilty of almost every conceivable offence. There were highway robbers, burglars, &c. *Murderers* only are not admitted here, but must finish their term of imprisonment under the closer confinement of the prison. We were particularly anxious to ascertain the previous characters of the prisoners, having heard it asserted that the inmates of the Irish convict prisons were of a lower grade of crime than those in the sister country.

"This is not the case, and the following table which he presented to us, is a satisfactory proof of this :—

*Smithfield and Lusk Intermediate Prisons.**Summary of convictions of prisoners now in custody.**August 22nd 1861.*

| SMITHFIELD. | | | | LUSK. | | | |
|-----------------|-----|-----|----|-----------------|-----|-----|----|
| 1st Conviction, | ... | ... | 12 | 1st Conviction, | ... | ... | 12 |
| 2nd | .. | ... | 10 | 2nd | .. | ... | 19 |
| 3rd | .. | ... | 12 | 3rd | .. | ... | 12 |
| 4th | .. | ... | 5 | 4th | .. | ... | 4 |
| 5th | .. | ... | 2 | 5th | .. | ... | 7 |
| 6th | .. | ... | 1 | 6th | .. | ... | 1 |
| 7th | .. | ... | 1 | 7th | .. | ... | 1 |
| 8th | .. | ... | 2 | 8th | .. | ... | 2 |
| 9th | .. | ... | 1 | 9th | .. | ... | 2 |
| 10th | .. | ... | 2 | 10th | .. | ... | 1 |
| 11th | .. | ... | 1 | 12th | .. | ... | 2 |
| 14th | .. | ... | 2 | 14th | .. | ... | 1 |
| 15th | .. | ... | 1 | 17th | .. | ... | 1 |
| 41st | .. | ... | 1 | | | | |
| TOTAL, | | | 53 | TOTAL, | | | 65 |

"Therefore 94 out of the 118 are known "old offenders," some of the remainder being known to the police as bad characters, although not known to have been before convicted in the same country.

"It is said also that the English are more manageable than the Irish. Our own experience of the criminals of both nations would be directly the reverse of this. There are besides many English in the Irish convict prisons, and many Irish convicts in the English prisons; but their peculiar nationality does not render any different treatment necessary. The objection is futile. The principles and the system which have happily been the means of bringing these outcasts of society into the orderly, respectful, self-controlled men whom we saw, are founded on universal conditions of human nature, and if proved true in one place may be readily adapted to another by men, who like Captain Crofton, comprehend them, and possess the personal qualities which are requisite to carry them out."

Mr. Recorder Hill also remarks :—

“Thousands of hands might be usefully employed on public works of pressing necessity, (like harbours of refuge and coast defences), on which neither private capital nor that of Joint Stock Companies will ever be invested, for the obvious reason that although indispensable to the community they cannot be made to yield a revenue. War, emigration, and the rapid expansion of our agriculture, our manufactures and our commerce, all point to an approaching scarcity of labor.

“Beyond a doubt then, the new application of the labor of our criminals, hitherto so little profitable, which the Board has thus admirably devised, challenges immediate and most earnest attention ; and we have a *right to expect* that every improvement which can be suggested in the law controlling the treatment of criminals, so as to bring them at the earliest possible moment to the requisite degree of trustworthiness, will be forthwith made, and no amelioration believe me will be so efficacious to that end as enhancing encouragement to work out their own freedom ;—a motive which ought *not* to be confined to the cases of heinous offenders like the convicts whose discipline forms the subject of this paper, but which should carry its stimulating force into every cell of every prison, purging the administration of justice of the lamentable, nay revolting absurdity of withholding a priceless boon from the lower criminal to confer it on the greater.”

For the second, the manufacturing class of offenders, Sir Walter established an intermediate prison, or rather set of buildings adapted to the prosecution of the various trades.

Miss Carpenter thus describes her visit to it :—

“Our next visit was to the intermediate prison for those convicts who had learned trades, the last stage before being discharged either on ticket of leave, or on completion of sentence. Though the principles and object of this establishment are exactly the same as those on which Lusk is founded, yet the development of these is necessarily modified to meet the change of circumstances. Lusk is at a distance from Dublin, and the grand difficulties to be contended with there, are the natural tendency to abscond, and the danger of association with each other under comparatively little surveillance ; here there is an additional peril from the prisoners being at comparative freedom in the very midst of the city which had probably been the scene of their crimes, and which is filled with every allurements to vice. These added difficulties have been successfully surmounted.

“Smithfield is an old prison of the ordinary kind, which being at liberty has been adapted to its present purpose, while still retaining the *cellular arrangement for sleeping*. With this exception there is scarcely anything to remind one of a prison. The workshops, the large ample dining room, used also for evening lectures and other instruction, the cheerful open yard for exercise, enlivened by small garden plots, all would give one rather the idea of a model lodging house with associated workshops, than anything of a penal character.

“The men were at dinner when we arrived, and we requested permission to see them at their meal. As we approached the dining room, we heard the sound of cheerful orderly conversation, and on

entering found to our surprise that there was no superintendent present, but that the prisoners were conducting themselves with as much propriety as ordinary workmen.

"They have not even separate rations weighed out to them, but the whole fixed quantity of food being placed on the table, they help themselves with due regard to each others rights. Those who know what care is usually necessary in prisons, workhouses, and even schools to give to each inmate the exact portion of food appointed, in order to prevent dissatisfaction, will appreciate the admirable tone of feeling which the possibility of such latitude indicates.

"Though all regulations are very strictly carried out, yet as the prisoners feel that everything is ordered with a regard to their *welfare and administered with perfect justice*, they work *with their superiors* instead of *against them*, as is so commonly the case in prisons. Their *wills* are enlisted, and there is very seldom any cause of complaint; on several occasions some of the men have been employed at work at the prisons in the city at some distance: no difficulty has ever been experienced in marching them to and fro through the crowded city with a single officer; some of the men who are *nearest to their final discharge* are even permitted to go alone into the city to carry messages or to execute commissions. The prisoners are allowed, if they choose, to spend sixpence a week of their earnings in any innocent indulgence—they entrust with the purchase these privileged messengers, who have never been known to be unfaithful to their trust.

"The time is of course exactly noted when they go out and return, and the messenger knows that any neglect of duty would be certainly discovered, and would entail on him serious consequences; still the moral control appeared to us astonishing, which should be more powerful than bolts and bars on one so low and degraded as a convict.

"They *had been* convicts—they were treated as men; they had been made to feel that they were men *not for ever* degraded, but who might resume their place in society, or even take one, if they had never yet been regarded as other than out-casts.

"They comprehended the position in which they were here placed as men who might be trusted; and they proved themselves worthy of it."

Sir Walter Crofton remarks:—

"There is always as will be seen a sort of a nucleus preserved in this establishment, and though large draughts come occasionally of 30 or 35 from the prisons, in the course of three or four days, they all settle to their places in consequence of this nucleus which is left, and the establishment goes on orderly enough. We have had 80 in at a time: there are at present only 60. It is important that there should be small numbers, because it gives greater facilities for *individualizing*. With regard to the work performed, there is no doubt that considerably more is done than was ever performed in the prisons.

"There is an amount of *willing industry* that we do not find in the prisons generally—and as the trades instructors in this establishment were the prison officers, they are very good judges with regard to the *willing nature* of the industry. In addition to this

establishment of Smithfield there are two others: one has been recently opened: the other has been open the same time as Smithfield: it is at the mouth of Cork Harbour.

"It does not present the same advantages as Smithfield for getting employment, for the men, one being in Dublin and the other isolated; but still I am satisfied that the working of it is good, that the same principle pervades it, and that we have reason to be satisfied with the officers who are there; of course they have been selected for the purpose from different prisons, but we approve of its internal working.

"There are 230 prisoners at the present moment on this system there will in a fortnight's time be 70 more, making 300 in four establishments. We are going to erect, and they are in course of erection, eight moveable iron buildings, the same as there were at the Curragh camp, or at Aldershot for the troops, to hold 50 in each, so that the same system can be pursued—that is, individualizing in each prison or tent, if I may so call it, the 50 prisoners and keeping each sound in itself—with the power of moving these prisoners as we wish or as the public service requires.

"When the prison authorities observe that an intermediate man has acquired some capacity for self-control he is sent out on messages. It is found in practice that he does not abuse this privilege, but having transacted his business with promptitude he straightway returns. A number of such men will then be entrusted to leave the establishment for the purpose of performing some work procured for them at a distance from their homes, returning every night immediately on the conclusion of the day's labor.

"Here again, instances of abuse, such for instance as entering a public house, are rare, if not altogether unknown. The intermediate man having now established a character, is entrusted with money to make purchases, or to pay bills on behalf of the prison; and what may perhaps be justly considered as a surer criterion that his character is known to be deserving, is that such of his comrades as remain at home are in the habit of employing him on commissions to buy for them, and they place in his hands money for that purpose."

Sir Walter Crofton thus briefly epitomizes the description of this intermediate stage:—

"In this stage there are no marks. The result of the self-discipline effected by their attainment is here to be tested before the liberation of the convict.

"*Individualization* is the ruling principle in these establishments: the number of inmates should therefore be small, and not exceed (100) one hundred. The training is special, and the position of the convict is made as natural as is possible; no more restraint over him is exercised than would be necessary to maintain order in any well regulated establishment. The officers in the intermediate establishments work with the convicts.

"At Lusk there are only six and they are unarmed. physical restraint is therefore impossible, and if possible it would be out of place, and inconsistent with the principles which the establishments were instituted to enunciate.

"1st. You have to show the *convict* that you really trust him, and give him credit, for the amendment he has illustrated by his marks.

"2nd. You have to show to the *public* that the convict who will soon be restored to liberty for weal or for woe, may upon reasonable grounds, be considered as capable of being safely employed.

"How does this become possible?"

"The reply is, that the convict is co-operating in his own amendment. He cannot ignore the conviction sooner or later, that the system however penal in its development, is intended for his benefit; and that moreover it has by its stringent regulations and arrangements *after the liberation* of the convict, and this is most important to note, made the vocation of crime very unprofitable and hazardous to follow.

"He hears lectures of an interesting and profitable description, which not only point out the wickedness and the danger of criminal pursuits, but show him the course which he should take in order to amend his life, where his labor is required and his antecedents not likely to entice him to his ruin.

"The mind of the convict is in alliance with the minds of those placed over him, and what at first sight might have appeared to be impracticable has become for many years a recorded and gratifying fact.

"It is not averred that the mind of every convict is, in these establishments, bent upon well doing, but that the tone of general feeling is that of desiring to amend, and is in the closest alliance with the system.

"It is evident that this result is the attainment of an enormous power, which it would be impossible to secure by mere routine or mechanical appliances. The convict has felt the intention of the system, the scope of which has been made clear to his mind, that he is an individual whose special care and progress is noted, and very carefully watched in its development."

Whilst giving the foregoing extracts, showing the various stages a prisoner goes through, before he can get his ticket of leave, or be released, I have purposely omitted noticing gratuities, believing it to be more convenient to show in one place how this valuable stimulant is managed.

Gratuities.

In the first stage, that of cellular separation, the prisoner receives no gratuity.

In the second stage, which is divided into four classes, he may receive as follows:—

Third class, 1 penny per week.

Second do., 2 „ do

First do., for the first six months 3*d.* per week; for the second six months 4*d.* per week.

Advanced class 7*d.* to 9*d.* per week.

Intermediate Stage.

Agricultural prisoners receive 2*s.* 6*d.* per week for their labor, the value of which is estimated at 9 shillings.

Manufacturing do. receive do.

In intermediate establishments the convicts are allowed 6 pence a week out of their earnings; they may not spend it on intoxicating drinks, but in books, clothes, food, &c:—

“The utmost amount which a convict can earn in a week is 2*s.* 6*d.* If he be slack in his industry, of which there are few examples, or maladroit, he may be unable to earn so much. The greater portion of this remains in charge of the authorities. Sometimes it has been spent on articles absolutely necessary for the prisoner’s use; at other times it has been used as an instruction fee to tradesmen; very frequently it has been employed in paying for the passage of the discharged convict to another country, either where he already had connexions, or where he saw an opportunity for employing himself at a distance from the scene of his former troubles.

“I have already mentioned one thing on which the residents of the intermediate prison not unfrequently spend a part of their sixpence a week—*bread*. The fact is quite sufficient to show that the dietary is not excessive, either in quantity or quality; yet the men at Lusk do not grumble, they do not revolt to extort a more luxurious fare, they do not refuse to work. On the contrary, if an extraordinary amount of work is needed—as for instance to complete a piece of drainage promptly, or to save the harvest—they throw themselves into the labor with zeal. On such occasions they take evident pleasure in promoting the interests of the establishment, and in evincing their zealous fidelity towards the head of their department, and it is at times like these that they are observed to spend a portion of their little weekly honorarium in bread.

“Once a week the inmates of the intermediate prison are allowed to send one of their own class out of bounds, to purchase the articles on which the sixpence a week is to be spent. In all the time since the beginning of the system there have been but three cases of default. In one instance the man so employed was a person of weak mind, who ought perhaps not to have been selected; in the other two instances the defaulters had met old friends, and had been tempted ‘just to have a drink.’ But in each of these three cases the man was found waiting outside the gates of the intermediate prison, looking very foolish. He had been tempted: he had yielded; but he retained his conscience, his hope in the system, and his preference of it over the wild chances, and the remorse of flight.”

The largest amount of gratuity which is attainable by a convict under a sentence of five years penal servitude, and whose character is unexceptionable is as follows :—

| Position. | Time passed in it. | Rate of gratuity. | Amount realized. |
|---------------------|------------------------|-------------------------|-------------------------|
| SECOND STAGE. | | | |
| 3rd class, | 2 months=8 weeks. | 1 <i>d.</i> per week. | 8 <i>d.</i> |
| 2nd class, | 6 months=26 weeks. | 2 <i>d.</i> „ | 4 <i>s.</i> 4 <i>d.</i> |
| 1st class, | 12 months. | | |
| | 1st half=26 weeks. | 3 <i>d.</i> | 6 <i>s.</i> 6 <i>d.</i> |
| | 2nd half=26 weeks. | 4 <i>d.</i> | 8 <i>s.</i> 8 <i>d.</i> |
| Advanced class, | 14 ms. or about 60 ws. | 9 <i>d.</i> | £ 2-5-0 <i>d.</i> |
| Intermediate stage, | 9 ms. or about 39 ws. | 2 <i>s.</i> 6 <i>d.</i> | £ 4-17-6 <i>d.</i> |
| | | Total, | £8-2-8 <i>d.</i> |

On his discharge, the balance of these accumulated gratuities, after deducting what he has spent or what has been spent for him, is paid to him if it does not exceed £2. The excess if any is, unless the Directors otherwise order, paid to them by instalments on the certificate of their respective clergymen, or of the head constable of the district in which they reside, that they require the money for beneficial purposes.

The prisoner when he quits Lusk or Smithfield receives the following clothes as a gratuity : 1 cloth coat, waistcoat and pantaloons ; 2 shirts, 2 pairs of stockings, 1 pocket handkerchief, 1 pair boots, 1 necktie and 1 cap.

The Recorder of Winchester, A. J. Stephens, L. L. D. remarks on gratuities :—

“ Gratuities or compensations to prisoners for their labor have been productive of essential service, not only to the convicts but to society at large. How can the reformed thief forsake his vicious pursuits if he be cast upon society penniless and friendless ? Gratuities are an inducement

ment to the prisoner to acquire habits of industry, and to curb his bad passions when in confinement; they enable him when he is discharged from prison, either to emigrate, to receive additional instruction in that trade which he had partly learned when in prison, or to support himself until he obtains employment.”

We have now seen how under the Irish system Sir Walter Crofton's three great measures were carried out:—

I. Individualization in treatment.

II. Intermediate treatment between imprisonment and conditional or absolute liberty.

III. Prisoners made arbiters of their own progress to liberty.

The various classes and stages have been minutely described, but it is necessary to notice the treatment awarded to those amongst the convicts who either from idleness or viciousness delay or altogether stop their own progress through these classes or stages.

Regarding such men Sir W. Crofton observes:—

“The men who are idlers are kept by themselves in a class. The men who are dangerous are kept by themselves also, and withdrawn altogether from the general laborers of the prison.

“They are subject to very strict treatment; for instance, the idlers, who do not do their work and interfere with the general class, are put by themselves and employed, with *very little* food; the dietaries are specially altered for them.

“There is another class of men who assault the officers—violent men—who are kept in what is called the dangerous class. They are kept in chains to prevent them doing further mischief, and also only upon such dietary as the medical officer thinks is absolutely necessary for them, but it is *very low*.

“There is a *class of dietary* for the idlers and a class for the dangerous men, and they are kept perfectly separate; their dietary is reduced until they show by their future conduct that they deserve to be put into the ordinary labor classes. Now I attribute to this minute classification of these men the being able for the last three and a half years to do without flogging, although I may add that I have no objection to flogging retained as a punishment; we have not resorted to it during the last 3½ years, proving I think that this kind of classification, under stringent rules, is very advantageous; it is satisfactory to know that although at the commencement there were several in these classes very few are in them now.

“The following table shows the shortest periods which prior to 1861 a prisoner must have passed in each stage of his progress:—

| Sentence. | Shortest period of imprisonment. | | WAY IN WHICH THIS IMPRISONMENT MAY BE PASSED BY THE MOST SUCCESSFUL PRISONER. | | | | | | Total of leave. |
|-----------|----------------------------------|-----|---|---------------|------------|------------|----------|---------------|-----------------|
| | | | Cellular imprisonment. | Second Stage. | | 1st class. | A class. | Intermediate. | |
| | | | | 3rd class. | 2nd class. | | | | |
| Years. | Yrs. | ms. | Ms. | Ms. | Ms. | Ms. | ... | Ms. | Months. |
| 3 | 2 | 6 | 8 | 2 | 6 | 10 | ... | 4 | 6 |
| 4 | 3 | 3 | 8 | 2 | 6 | 12 | 6 | 5 | 9 |
| 5 | 4 | 0 | 8 | 2 | 6 | 12 | 14 | 6 | 12 |
| 6 | 4 | 6 | 8 | 2 | 6 | 12 | 17 | 9 | 18 |
| 7 | 5 | 3 | 8 | 2 | 6 | 12 | 20 | 15 | 21 |
| 8 | 6 | 0 | 8 | 2 | 6 | 12 | 28 | 16 | 24 |
| 10 | 7 | 6 | 8 | 2 | 6 | 12 | 44 | 18 | 2 yrs. 6 |
| 12 | 9 | 0 | 8 | 2 | 6 | 12 | 59 | 21 | 3 years. |
| 15 | 10 | 0 | 8 | 2 | 6 | 12 | 68 | 24 | 5 " |

"In July 1864 the Penal Servitude Act was amended and penal sentences for three and four years abolished, making the shortest sentence five years.

"We must now give some attention to the treatment of those convicts who have earned a title to what is called a ticket or licence of leave during the remainder of their sentence.

"By Act XX and XXI Vict. of 1857, certain portions of each sentence might be passed under a ticket of leave. In each sentence the amount is limited, but within that limit the prisoner's previous conduct fixes how much he may be granted.

"By the law which was amended in July 1864, he may still receive as follows:—

| <i>Length of sentence.</i> | <i>Period which may be passed under condition of ticket of leave.</i> |
|----------------------------|---|
| 5 years. | 1 year. |
| 6 " | 1 " 6 months. |
| 7 " | 1 " 9 " |
| 8 " | 2 " |
| 10 " | 2 " 6 " |
| 12 " | 3 " |
| 15 " | 5 " |

"As this point, namely the release of a prisoner on a ticket of leave, or licence, is one of vital importance, and one which has given rise to great discussion in England and much difference of opinion, it seems desirable to notice it at some length.

"Recollecting the progressive system of treatment through which a convict passes, let us consider his position when, at the close of the intermediate stage, and note the further treatment under that of *conditional liberty*".

The Directors reporting so far back, as 1859, observed:—

"We have stated that intermediate prisons would without the assistance of *conditional liberation* and registration, be of themselves incomplete; so on the other hand, without the preliminary treatment of intermediate prisons, *conditional liberation* would be incomplete and unsatisfactory in its results.

"The system must be taken as a whole."

Now in Ireland from the very commencement of the reformatory system, the ticket of leave, the title to conditional liberty, was only obtained as the reward of constant efforts to do what was right by steady industry and good conduct.

It was a prize not earned lightly, and when earned the convict went forth into the world not uncared for. He was at once placed under the surveillance of the police, who were his best friends; not only because they to a great extent prevented bad characters from leading him astray, but because they befriended and aided him to get employment, and yet without interfering with his freedom. Other special agencies were set in force to help the convict to support himself, and at the same time he felt and knew that misconduct, even so much as to consorting with bad characters, would if persisted in assuredly lead to his being sent back to prison.

The supervision was sufficient to indicate very decidedly to the convict that he could not safely adopt any half measures as to honestly earning his livelihood. He must make the attempt strongly, persistently and earnestly.

His previous training in the intermediate establishment had enabled him to test and to prove his powers of self-control, of resisting temptations, and now in his state of comparative freedom he has a still further opportunity of proving that he is indeed able and willing, to lead a life of honest labor. The public knowing the *control* and check still held over the convict, when "on ticket of leave," willingly employed him.

He came to them with so to speak a certificate from his last place, the "intermediate establishment," and they knew that certificate, that ticket of leave, had been hardly earned—not lightly gained. But in England all was reversed; there, to use the words of Mr. Waddington, the permanent Under Secretary of the Home Department—"The ticket of leave is *not* granted as the *reward* of any particular good conduct, but is for *refraining* from bad conduct."

There, as the Recorder of Birmingham, Mr. Hill, remarked, "Mr. Waddington touched the question at the *core*." That, combined with the determination of the prison authorities in England not only *not* to put the ticket of leave man under the surveillance of the police, but carefully to conceal from the police all knowledge of him, naturally produced those crimes which gave rise in England in 1862 to the justly grounded alarm regarding "tickets of leave."

I cannot here enter into all the arguments adduced by the English prison authorities for their mode of procedure: the chief and the most plausible one, but one which the positive and actual experience gained in Ireland has proved to be an utter fallacy, was that, the convicts could not get employment if they were known to the police. The results however of their *not* being known to the police, were *not* that they shortly got employment, but that *they had every facility of again* reviving their criminal practices, opportunities which the well grounded panic in England showed they had fully used.

Though the actual results had been so unsatisfactory in London, Sir Richard Mayne expressed to the Committee of 1856, an opinion respecting the soundness of the principle of discharging prisoners on licence, which is important as coming from one who from his position would be well qualified to judge. He says:—

"My opinion is that the system of a ticket of leave, as far as it releases persons, keeping them under the power of subsequent punishment by a revocation of the licence, is a good one."

To effect this, which is indeed the very essence of the system, and the condition under which the licence is

granted, it is evident that some degree of supervision of the convict is necessary.

In England convicts were sent forth into society without any arrangement being made, to secure the due fulfilment of the conditions to the criminal, and safety from his outrages to the public; on the contrary, while it is the ordinary practice of the police to keep convicted thieves under special supervision, these licence holders were privileged with immunity; for the police were kept quite in the dark regarding them, and if known to the police yet were not to be in any way noticed or looked after, for fear of the supervision interfering with their getting employment; a special immunity was thus given to convicts.

The following are the conditions which were endorsed on the licence of every convict liberated in the United Kingdom, but which in England were not carried out prior to 1864, and which therefore led not only to the convict committing crime with more immunity from detection than other criminals, but to his at once tearing up his licence as the last remaining check on himself:—

NOTICE.

I. The power of revoking or altering the licence of a convict will most certainly be exercised in case of his misconduct.

II. If therefore, he wishes to retain the privilege which by his good behaviour under penal discipline he has obtained, he must prove by his subsequent conduct that he is really worthy of Her Majesty's clemency.

III. To produce a forfeiture of the licence, it is by no means necessary that the holder should be convicted of any new offence. If he associates with notoriously bad characters, leads an idle and dissolute life, or has no visible means of obtaining an honest livelihood, &c., it will be assumed that he is about to relapse into crime, and he will be at once apprehended and recommitted to prison under his original sentence."

The following memorandum issued in 1857 on this subject is full of practical instruction, and shows how in Ireland the true principles on which tickets of leave men should be treated were thoroughly understood and acted on:—

MEMORANDUM.

DUBLIN CASTLE. 1st January 1857.

Registration and supervision of convicts on ticket of licence.

"His Excellency the Lord Lieutenant being desirous of accurately testing the practical working of the ticket of licence system,

by a well organized system of registration of licenced convicts, whereby they may be brought under special supervision, and a check be laid upon the evil disposed, has been pleased to sanction the following regulations, which are, therefore, circulated for the information and guidance of the constabulary.

"I. When an offer of employment of a prisoner is accepted, a notification thereof will be made by the Directors of Government Prisons to the Inspector General of Constabulary, by whom it will be transmitted to the constabulary of the locality in which the employment is given, with all necessary particulars for the purpose of being entered in a register at the constabulary station.

"II. Each convict so to be employed will report himself at the appointed constabulary station (the name of which will be given to him) on his arrival in the district, and subsequently on the 1st of each month.

"III. A special report is to be made to head quarters by the constabulary whenever they shall observe a convict on licence guilty of misconduct or leading an irregular life.

"IV. A convict is not to change his locality without notifying the circumstances at the constabulary station, in order that his registration may be transferred to the place to which he is about to proceed. On his arrival he must report himself to the nearest constabulary station (of the name of which he is to be informed) and such transfer is to be reported to head quarters for the information of the Directors of Government Prisons.

"V. An infringement of these rules by the convict will cause it to be assumed, that he is leading an idle, irregular life, and therefore entail the revocation of his licence.

"VI. Further regulations may hereafter be added to the foregoing should they become necessary. It will be obvious that as the employer is in every case made acquainted with the antecedents of the prisoner he wishes to engage, any enquiries that may afterwards be discreetly made as to character, conduct &c., cannot in any way affect the prospects of the convict.

"It appears that of the whole number of 559 convicts on licence up to the 30th September 1857, seventeen licenses have been revoked.

"It will be observed also that in addition to the stringent observation exercised over forty-two men, who are many of them exposed to the temptations of the city of Dublin, there is also the very efficient and general supervision of the constabulary; yet the results, though slight irregularities are always noted, and the terms of the licence most strictly employed, prove the revocation of rather more than three per cent."

It is very important to observe that in Ireland the system of conditional liberty on ticket of licence, was working as a complete success at the very same time that in England it was working as a complete failure. The secret of the Irish success and the English failure has been shown in the words of Mr. Waddington, the Under Secretary in the Home Department, that in England, not so in Ireland, it was

granted *not* as the reward of any good conduct but for *refraining* from bad conduct; and to this I must add the facts subsequently noted that in Ireland the convict on ticket of leave started a well tried man and presumably reformed, that he was placed under the friendly yet strict surveillance of the police, and the terms of the licence enforced; whilst in England, the convict started an untried and presumably an unreformed man; was carefully shielded from all cognizance by the police, and allowed to go amongst the people uncared for and unwatched. At the early period of the Irish system in 1856, when the intermediate stage of treatment was not in existence, Sir Walter Crofton with remarkable prescience refused absolutely to attempt the system of tickets of licence until he had proved his convicts were fitted to be so trusted. Though before given in this treatise yet his words may well be repeated:—

"We consider such ticket of licence to be a sort of guarantee to the community that in consequence of a prisoner having been subjected to a proper course of prison discipline and reformatory treatment, he is considered a fit subject to be received and employed by those outside the prison; such reformatory course not having hitherto been pursued in this country, we have not felt ourselves justified in recommending the issue of tickets of licence."

And such should be the real practical understanding between the public and the Government, regarding those tickets of leave—if this mutual understanding is *not* agreed to, the public will most properly refuse to employ such convicts, and use every means in its power to prevent their release on tickets of leave; and on the other hand, the whole reformatory treatment by Government will collapse, by cutting off this most valuable of all its parts—the testing point of the truth or falsehood of the principles adopted in the said reformatory treatment. As before observed by the Directors of Convict Prisons, "you must take the system as a whole, of which intermediate prisons or stages, and conditional liberty on tickets of licence or leave, are indissolubly united."

It was not found in Ireland that ticket of leave men were readily given employment in the *early days* of the system. The public wisely held back; but as the confidence of the public was gained, that justifiable and most advantageous

reticence was removed. I say advantageous because the more careful the public was before it accepted these men, the greater the value of its testimony now (as shown by giving them employment) to their reformation.

Lord Carlisle, formerly Viceroy of Ireland, and who took the deepest interest in the reformatory system, thus observed in 1858, regarding discharged convicts who had passed through the Irish reformatory system :—

"I perceived on one occasion a discharged prisoner forming one of a gang of haymakers on my own grounds in Phoenix Park. He was pointed out to me by the contractor for the job, who gave a *good account* of him; but I distinctly saw on my approaching him, that he did not wish for much conversation; he felt very anxious that his antecedents should not be known to his fellow workmen; and for my own part, I feel quite resigned, all Viceroy as I was at the moment, to be cut by a convict."

"I will only cite one more comment which, among other things, shows that the supervision of the police is not necessarily considered irksome by the discharged prisoners themselves. This letter is addressed to Mr. Organ, the well known lecturer in the Irish prisons, and is from a man convicted of larceny; it being his seventh conviction. 'I am living with my father ever since, and I am going on very well; the constabulary are doing everything in their power for my welfare. Your lectures and advice are as fresh in my mind as when I sat there listening to your fatherly expressions, and I will always think of the advice you gave before we left you. No matter who returns you ingratitude after all your trouble, you will always find me grateful, because you acted a father to every one of us as well as to me. I will conclude for the present, thanking God and you for my deliverance from bondage; and may the Almighty reward you and every benevolent man who in the course of time will be an aid in the work of mercy.'"

A few instances taken from the valuable work by Miss Carpenter (so largely extracted in this treatise) are in themselves instructive and interesting, and indicate the feelings of those who employ men on tickets of leave or discharged convicts :—

"Among the very first persons who ventured upon employing a man with a prison character, is an extensive builder. Some of the men whom he thus consented to take have formerly borne the worst characters. Their conduct with him however had been in every respect satisfactory. He has at present four in his establishment.

"The tradesman in the street, which I have likened to Newgate street, has in his employment, four men, and he made his report on their conduct with the utmost directness and unreserve. He had no complaint to make; in some respects the laborers obtained through Mr. Organ are more tractable than the ordinary class of Dublin

workmen: less inclined to cavil, less ready to take advantage of their employers in periods of pressure, more eager to persevere in winning his approval." One of the men who had been with this gentleman had led a life of crime for many years; another had been known to the Dublin police for the last ten years, and though still young, had been convicted seven times. These men are surrounded by property, which malice or negligence might injure to the amount of a hundred pounds. Two of them, including the man who was convicted seven times, are entrusted with the collection of bills to the amount of 40 or 50 pounds at a time, and there is not a single instance of inaccuracy. It is to be remarked that in this instance as well as in others, the employer had had several men in his service at different times, so that he spoke from a varied and lengthened experience.

"The owner of the other manufactory, which I might liken to a leather dresser's in the midst of St. Giles, is himself a very intelligent man, business-like and straitforward. His transactions are extensive, and he evidently has a keen eye to the main chance, yet he naturally and properly expressed strong satisfaction at the consciousness that while serving his own interests he was engaged in a work really beneficial. One of the men employed at this place had been for nine years 'in crime' before conviction. He has been four years in his present place, and every day of these four years he has been earning a good character. The case of the other man is still more remarkable. He may be said to have had extensive connexions in the criminal profession, and he was himself distinguished in his calling as a desperate burglar: with a fine figure, a manly aspect and an agreeable countenance, he has about him much that is considered to distinguish the gentleman. He had for some time been a 'flash' man and his ambition as a Don Juan in that sphere had been gratified by the most remarkable 'success.' A policeman said of this eminent burglar, that he should know his chisel in any window in Dublin; the hero was so active and reckless that it was impossible to capture him, even with the powerful force brought against him until two of his ribs had been fractured. Another policeman a devoted servant of the Irish system, with full confidence in its efficacy, declared that the case of this man so hardened in crime, and so reckless, must be regarded as an exception, in which the ticket of licence would be inapplicable and unsafe. The fact is, the man had employed certain qualities which are not bad in themselves amid adverse circumstances, and probably from childhood under the influence of a perverse ambition. The thorough discipline of the *Intermediate Prison* however had bent these faculties back into the right direction, and had drawn forth his better qualities. Here he is surrounded by property ready for the market and quite portable; he is also placed in the midst of a neighbourhood thickly inhabited by men of the very worst character, who would but too gladly take part in any burglary; yet this accomplished burglar, this man whom the police assumed to be incorrigible, whose chisel was known in any window of Dublin, sleeps on the outside of the window, and is trusted by the master without a moment's uneasiness.

As the counterpart and addition to these cases of men employed, I may give specimens of the applications made by em-

ployers. At first of course the initiative was taken by the earnest energetic officers of the system, who were glad to discover men in trade with sufficient understanding and trustfulness to accept the services of convicts; but even in this short time the employers have learned to take the initiative. Sometimes they make their application by simply walking up to Smithfield, and asking for the men they want; sometimes they make their application by letter to Mr. Organ asking for workpeople on simple business like terms, such as they would use to any well known agent. I have such letters before me; one writer, a prosperous tradesman, who is altering his house, says 'could you send me a decent bricklayer to build up a wall and do a few other jobs;' another, a manufacturer, says, 'I can now make a room for two of your men provided they are sober and well able to work, wages 10 shillings a week;' a third, in a large way of business, can 'employ two or three able and willing men;' and so on."

Mr. Organ observes:—

"The employers invariably prefer ticket of leave men to convicts who are unconditionally discharged, because they are under more control. The question generally put by employers who have wealth and loose property lying about is, *how long have the Government control over these men?* They are always led in a very great degree by the number of years yet to serve.

"I explain to the persons who employ these men the control which the Government has over them whilst they are holders of a ticket of leave. I always lay the facts clearly before the employers, because if I were not straight-forward with them, and I was once detected, I should never be able to show my face again, so that the employers are aware that these men whom they take into their service have been previously in the convict prison. But the men with whom they work are not always aware of that fact. It is the interest of employers to keep the other workmen in ignorance of the fact; and there is another thing, that if the honest workmen were to know this, I am sure they would take objection to it and make the place too hot for a discharged prisoner; no difficulty has been found in keeping the matter concealed from the other workmen. The employer always does so, he communicates with me privately, and the other workmen are not acquainted with the character of the men or their previous mode of life. I have known cases in which the old associates of convicts have endeavoured to use their power over them, and from a fear of being betrayed to extort money from them. I have seen their former companions waiting in knots on the morning of their discharge, and endeavouring to induce them to go with them. I have known their former associates to come up 100 miles from different parts of Ireland, in order to meet them on the morning of their discharge and induce them to follow them. "When men are on the point of leaving me, I impress upon them to the greatest possible degree the danger that will arise to them, and which they will have to meet amongst their old companions; because if a well disposed convict on being discharged is anxious to earn his bread honestly, and goes in amongst his former companions, he is sneered at and he is tormented—in fact he has not any power to resist."

Sir Walter Crofton thus observes on the supervision over men on ticket of leave :—

"The slightest infringement of the conditions of the licence leads to a revocation of it. I do not believe, and I have often put this forth when I was in the department, that any case could be proved of a man breaking the conditions of his licence in Ireland and *remaining at large*; he was sure to be put back to separation, and his licence revoked. If we found that a man was within a fortnight of the expiration of his sentence, and infringed some of the conditions of the ticket of leave, we sent that man back to prison for the sake of principle. I do not know that it has ever occurred in a case so close as a fortnight, but it has done so close as a month or three weeks.

"They were generally easily caught. They were put in the 'hue and cry'; a warrant was issued; and there were very few cases in which they baffled us. At first there were a great many shifts and trials to evade, but ultimately, and before long, when they found that many had their licences revoked, and were brought back, they did not even try to baffle as they did at first.

"The supervision of convicts in the country is thus carried on through the constabulary. There is a notification made to the Inspector General of the constabulary the moment a man is liberated, stating to what district he is going; the man registers himself with the head of the police, states what he is going to do, where he is going to be employed, and reports himself to him once a month. If he removes from that district his registration is transferred from the district he is in at that time to the one to which he goes, so that he is traced from one place to another. If he does anything to infringe the terms of his licence the constabulary report him, and his licence is revoked at once. He must come himself once a month, and report himself to the police, but it is evident that the police do not confine themselves to that, for knowing where he is they would look after him a little oftener, without interfering with him. I can state from my own experience that there is no undue espionage or oppression practised by the police. I have seen some hundreds of these people after being subjected to supervision, and, with the exception of two cases in which I recollect complaints being made of interference, nothing detrimental occurred. I state distinctly that in my opinion there has been no undue interference on the part of the police. I am quite sure that if police supervision were withdrawn to-morrow from the licensed convicts in Ireland, you would find but little employment for them, and you would have very serious trouble. I have no doubt that it is a very great protection to the public in Ireland."

The four Justices from Yorkshire who were especially deputed to examine the Irish system, thus testify regarding this part of it :—

"There can be no question that such a system as this (ticket of leave system as carried out in Ireland) is a most powerful deterrent from crime, because it produces so much greater certainty of detection. What really deters the criminally disposed is not so much the *amount* of punishment as the *certainty* that some punishment will follow upon crime. What encourages them is not so much mildness of punishment as the hope of impunity.

"But the discharged convict knows that under this system he is likely, if re-convicted of felony, to receive a much *longer* sentence, which is what he really dreads, than he would otherwise. His identification being thus secured, all his antecedents are readily ascertained, and systematically brought before the court which tries him, and he receives a sentence proportionate to his former offences as well as the last."

I have noticed how the system of conditional liberation on ticket of leave, so essential a part of the reformatory treatment, became in England not only a complete failure but encouraged the convicts to commit crime. Naturally this led to the most rigid and impartial examination of the principle itself, by numerous competent authorities of all countries; and moreover to a Parliamentary Committee being appointed in England expressly to consider the point. The searching scrutiny to which the principle was subjected has been most valuable, for its truth and value have been conclusively established; not only was it upheld by an overwhelming majority in spite of the panic raging in England at the time, regarding ticket of leave men, but a new Act was passed in 1864, to amend the former Acts, fully upholding the principle and giving greater power for carrying it out thoroughly, and according to the procedure proved in Ireland to insure success:—

"The new Act repudiates the whole doctrine of concealment. It provides for the supervision of ticket of leave men, first by making it incumbent on them to report themselves once in every month to the head of the police of the district in which they reside; and next by empowering any police officer to carry a ticket holder before a magistrate to answer the charge of breaking the conditions of his licence; which charge when proved will in all serious cases work its forfeiture, and even in minor instances lead to some imprisonment."

The Act says:—

"A licence granted under the said Penal Servitude Acts, or any of them, may be in the form set forth in schedule (A) to this Act annexed, and may be written, printed, or lithographed. If any holder of a licence granted in the form set forth in the said schedule (A) is convicted, either by the verdict of a jury, or upon his own confession, of any offence for which he is indicted, his licence shall be forthwith forfeited by virtue of such conviction: or if any holder of a licence granted under the said Penal Servitude Acts or any of them, who shall be at large in the United Kingdom, shall, unless prevented by illness or other unavoidable cause, fail to report himself personally, if in Great Britain to the chief police station of the borough or police division and if in Ireland to the

constabulary station of the locality to which he may go, within three days after his arrival therein, and, being a male, subsequently once in each month, at such time and place, in such manner and to such person as the chief officer of the constabulary force to which such station belongs shall appoint; or shall change his residence from one police district to another without having previously notified the same to the police or constabulary station to which he last reported himself—he shall be deemed guilty of a misdemeanour, and may be summarily convicted thereof, and his licence shall be forthwith forfeited by virtue of such conviction; but he shall not be liable to any other punishment by virtue of such conviction. If any holder of a licence granted in the form set forth in the said schedule (A)

"I. Fails to produce his licence when required to do so by any judge, justice of the peace, sheriff, sheriff's substitute, police or other magistrate before whom he may be brought charged with any offence, or by any constable or officer of the police in whose custody he may be, and also fails to make any reasonable excuse why he does not produce the same; or

"II. Breaks any of the other conditions of his licence by an act that is not of itself punishable either upon indictment or upon summary conviction.—He shall be deemed guilty of an offence punishable summarily by imprisonment for any period not exceeding three months, with or without hard labor. Any constable or police officer may without warrant take into custody any holder of such licence whom he may reasonably suspect of having committed any offence, or having broken any of the conditions of his licence, and may detain him in custody until he can be taken before a justice of the peace or other competent magistrate, and dealt with according to law."

Mr. Hill, Recorder of Birmingham, speaking of this Act in his address to the Grand Jury at Birmingham, observes:—

"The principal change, writes Sir George Grey, in the law which is affected by this statute is the abolition of sentences of penal servitude of four and three years, leaving the sentence of five years as the shortest that can be passed in any case, and authorizing it in those cases where only sentences of four or three years could have been passed before. This will have the effect of increasing the severity of the penal law, which owing to the very frequent use of the short sentences referred to, had in the opinion of the Royal Commissioners who lately investigated this subject, become too much relaxed. With the same object another very important provision is added; that a person convicted of a crime punishable with penal servitude, after having been previously convicted of felony, if the judge in his discretion thinks that the punishment of penal servitude should be inflicted, shall not be so sentenced for a shorter period than seven years. It will be observed that in all these cases the alternative sentence of imprisonment is not interfered with. In that respect the law continues as it stood before the passing of the late statute. The remainder and by far the larger portion of the Act refers to the granting to convicts under this sentence licences to be at large before its expiration, and introduces various regulations for the purpose of preventing the misconduct of such persons between the time

of their release and that at which they would have been by law entitled to their liberty.

"I do not think it necessary to occupy your time with any observations on this part of the subject, except to remark that among other safeguards of the public it is enacted that the conviction of a licence holder upon indictment for any offence involves not merely a revocation of this licence, but it remits him to his original sentence as it stood when his licence was granted, and this in addition to any punishment to which he may be sentenced upon such indictment. In accordance with the strong recommendation of the Royal Commissioners, an important modification is about to be introduced into the convict system, in reference to the granting of remissions; instead of these being granted as a reward of general good conduct as heretofore, they are now to be *earned* by industry alone. General good conduct, such as implicit obedience to all prison rules, will be indispensable as before, but will of itself count as nothing towards the obtaining the remission of a portion of the sentence. That can only be gained by steady and laborious industry, the degree of which will be measured and recorded every day by the assignment to each convict of a certain number of marks. A maximum amount of remission is fixed as hereinafter stated, as the utmost which can be attained by perfect industry, and the number of marks is so regulated that a convict must obtain the maximum number of marks every day, without any deduction for misconduct, in order to get the maximum remission. The sentence therefore is absolutely certain up to a certain point, but may possibly extend beyond that point, and will inevitably do so unless the convict persistently and strenuously exerts himself.

"The principle adopted, in the scale of remission for industry and good conduct gives a maximum reduction of somewhat less than one-fourth part of the sentences upon men, and one-third part of the sentences upon women. Wholesome restrictions have been introduced it appears in the quantity of food allowed, and also in the amount of gratuities given on discharge to convicts adjudged to penal servitude. Thus, gentlemen, you will perceive that the new provisions are characterised by augmented severity; and when you learn that they are made in conformity with the views not only of the Legislature and the Executive Government, but that they echo, as it were, the opinions of public bodies charged by authority, or who had charged themselves with the duty of careful investigation into the working of our criminal law, I think you will agree with me that our new Penal Servitude Act forms an epoch in our legislation."

Reviewing Criminal Law and the Irish system as now in force, Mr. Hill observes:—

"The impulse which wrought the mitigation of our Criminal Code was one rather of sentiment than of reflection; we revolted from the pain inflicted on ourselves through the sufferings of the criminal, and our own feelings once relieved we *forgot to ask ourselves* whether we were treating the object of our sympathy so as to promote his permanent advantage. We forgot that to discharge him from prison while under the influence of false principles and the coercion of evil habits, was to leave him in a state of slavery more surely incompatible with his welfare here than any state which could result from the harshest visitations of

human jurisprudence. If, then, the changes which have lately been made are such as to promote his reformation, and ensure his persistence in the right path after it has been recovered, true and genuine mercy will be far from receiving any shock by what has been done. And this I humbly believe will be the consequence should the new spirit breathed into the treatment of criminals permanently actuate all who take part in giving effect to our laws. You must have been struck gentlemen with the complete change of principle on which remission is hereafter to be granted. Passive obedience to prison rules, however indispensable it may be to good order, has little tendency to reform the character, and will therefore do little to ensure an honest course of life after discharge. *Industry* is the ground on which we must build, and in order that industry practised in jail may continue after the prisoner is at large, it must be willing industry, and hence the value of the remission which is held up to him as its reward; whereas industry produced by fear of punishment, even in the comparatively few instances where it is produced, will by the painful associations with which all memory of it must be accompanied, relax itself and fall into desuetude, when by regaining his liberty the convict has left his fears behind him. The extended duration of his sentence will afford him sufficient time to make his industry habitual, and it is to confirmed habits we must mainly look to protect him against relapse. Thus the interests of the criminal have been, we see, as carefully considered as the interests of society; both moving onwards hand in hand. But the benefits to each do not rest here. The hour of discharge arrives, and the well disposed prisoner having now to meet his greatest peril is not abandoned. He takes his gratuity, which preserves him for a time at least from the overwhelming temptation produced by want. He has to report himself to the head of the police of the district to which he resorts, and he thereby establishes a relation between himself and a public officer who both by duty, and speaking from experience, I will say also by inclination, will befriend him so long as his conduct deserves it, and who will exercise over his actions the powerful influences of hope and fear. It is often assumed that the vigilance which it is the duty of the police to exercise over discharged offenders is necessarily of a hostile character; but that is not so. A ticket of leave man, when his ticket becomes what it always ought to have been, a testimonial that the holder is a person who has given evidence of his earnest desire to do well, and of his possessing the requisite qualifications for pursuing an honest course of life, will find the head of the police of his district a protector against ill-founded suspicion, to which an ex-convict is naturally ever obnoxious. And when in addition to the testimonial which the ticket of leave man brings from his prison, he can safely refer to the police for a certificate that he has continued to deserve the remission which has been granted to him, surely he must thus obtain facilities for procuring employment which will constitute a new and invaluable privilege; while, on the other hand, his consciousness that any breach of the conditions on which he holds his licence to be at large, will, the moment it becomes known, ensure his being forthwith deprived of his liberty, must give an additional force to his good resolution. The interval, then, between his discharge on ticket of leave, and the expiration of the sentence pronounced upon him by the judge, is made a season of regulated responsibility. It is an ad-

ditional stage of probation, furnishing motives to good conduct, which will only cease to act when such probation being fully accomplished he regains the footing of his neighbours who have never fallen into that miserable adversity which is the offspring of crime."

I trust that the foregoing and other extracts have sufficiently shown that the principle on which the "ticket of leave" forms an essential part of reformatory treatment in Ireland and in England, has been subjected to the most searching examination, and has been triumphantly upheld, not only by the supporters of the Irish system, but by the most distinguished English authorities, and finally by Act of Parliament. Probably no part of the reformatory treatment has formed the subject of such continuous and animated debate. It was necessary therefore that I should show at some length what had been said and what had been done regarding it.

With the expiration of the period of the "ticket of leave" ends the authoritative connection of the Government and the law with the convict; after that, he is not in England or Ireland subjected to any legal supervision such as entails on him the performance of any duty. The police in Ireland undoubtedly do continue to aid him if they can, and so also do those benevolent men and societies whose efforts are specially devoted to aiding in the great work of reformation, by helping convicts to earn their bread honestly. Should he relapse into evil habits, unquestionably the surveillance of the police, which is not relaxed, will be brought to bear on him so as to convince him that if he does commit an offence his arrest is certain.

Before concluding this brief sketch of the Irish system, I must notice certain important points which are connected with the success of the system, and which, in the general sketch I did not specially describe:—

CHAPTER III.

MEASURES CONNECTED WITH THE REFORMATORY SYSTEM.

I. The Irish system assumes that every convict is so to speak an "habitual" not a casual offender, and treats him as such.

Sir Walter Crofton, on this point observes :—

"Another great difference between the English and Irish systems was the institution of supervision after liberation; and here I at once acknowledge what has been adduced against us, that there must have been very weak faith on the part of the directors in their own system, when they thought it necessary to supplement it by supervision after liberation. I acknowledge, and I am sure that my colleagues would do the same, that I have a weak faith in any mere *prison system*, and I think it is far better, both for the public and the convict himself, to check his prison conduct, and the prison system, by the infallible test of observation when he is at liberty. During the process of classification I had taken the pains to go through somewhere between 2,000 and 3,000 convict cases, and I satisfied myself from their antecedents, and from other points brought to my notice during this examination, that a very great majority belonged to the criminal class and would in ordinary course return to thieving. It therefore made it imperative, according to my mind, that we should not treat persons as casual offenders, who are in the convict prisons, but *expressly* as criminals *living in crime by habit and repute*. It was therefore necessary to surround by every possible means, the commission of crime by obstructions. It was quite clear that if you could impress upon the minds of this class that if they pursued a course of crime after liberation, they would be brought back to prison again and have lengthened sentences entailed upon them; if you could tell them confidently that the conditions of the licences would be enforced, it would serve in a great measure to indoctrinate them with the idea that crime would be unprofitable. I am quite sure that the success of the Irish system has been mainly indebted to a feeling on the part of the convicts from the commencement of their sentences, that they could not follow crime as a vocation with impunity. I firmly believe that the great evils which have occurred in England, and the very great expenditure consequent on crime, has arisen from our believing that the majority of our convicts in the Government prisons were *casual* offenders. I am satisfied that there never was a *greater delusion*. If the police were taken into consultation, as I have always made a point of taking them into consultation in Ireland, the antecedents of those people would be reliably ascertained; and speaking of England I feel sure that the Commissioners would find that from 70 to 75 per cent at least live by crime. It is with them a vocation, a business; and I assert that we have no reason to assume that they are only waiting for employment in order to live honestly; on the contrary, we are bound to assume from their former lives, that they will not do so, and therefore should take such precautions as shall protect society against them; and in the process of protecting society against them, we shall also protect them against themselves; and that I am from practical experience prepared to prove. These are the main features of the difference between the two systems, which start from different bases; but it will be observed that the Irish convict system in its procedure makes cases against itself, and therefore its statistical results cannot be compared with any other system."

II. Registration throughout the country of all offenders,

with a view to habitual offenders receiving on conviction severer sentences than would be passed on a casual offender.

One great feature in the mode of registration in the United Kingdom is the use of photography. The likeness of each prisoner is taken and fixed into a book, when he is received into the prison on being committed for trial: when there is reason to believe that he is an old offender, his portrait is sent wherever the circumstances of the case dictate, and in numerous instances it has led to the discovery of men being old offenders.

Sir Walter Crofton observes:—

"In the county prisons when prisoners are suspected or known to have been convicts, they send up a form containing particulars, with a description of the person suspected or known to be a discharged convict. That comes to the convict prison office, in order that the man may be identified; and very often, when it is necessary, if a man demurs at all to his identification a prison officer is sent down to identify him, and if found guilty of any crime, a letter is in *all cases* placed on the table of the judicial officer, which has been written to the Governor of the jail, the letter being in these terms:—

'GOVERNMENT PRISONS OFFICE.

SIR,

The enclosed particulars * * * * have been compared with the books of this office and are correct. In the event of his being found guilty of the present charge, the Directors of Convict Prisons request that the notice of the judge may be particularly called to the circumstance of his being an 'habitual offender,' with the view of his receiving a sentence proportionate to his perseverance in pursuing a course of crime.

'Please to notify the result of the trial to this office, and return the enclosure at the same time.'

"This is a case which actually occurred. A man was convicted for picking pockets. He was a convict and this course was pursued with him. It entailed upon him a sentence of *ten years'* penal servitude. His character as an 'habitual' criminal was taken into consideration by the judge. I am able to speak confidently on two most important points; information with regard to *habitual* offenders being sent in each case to the county prisons; and in the case of ticket of leave men that their licences have been *always* *revoked* for an infringement of the conditions."

As the use of photography for taking portraits of criminals has been found so immensely valuable in the United Kingdom as a means of registration, and as the art can without any difficulty be learnt by natives, so far as the

simple taking of a portrait sufficiently good for the purposes of recognition, I give the following remarks by the Governor of the Bristol jail, Captain Gardner, made so far back as 1854:—

"The advantages which I have myself seen derived from the use of photography as an aid to the administration of criminal justice are such, that I am induced to make an effort to procure its general adoption throughout the kingdom. The importance of being enabled, in the cases of all hardened criminals, to prove previous convictions must be too self-evident to dwell upon, neither does it require argument to show that the difficulties hitherto in the way of such proof, have been always numerous and often insurmountable.

"When the convict has been sent back to the *same jail* the required evidence has been easily procurable; but it is well known to all who have been concerned in criminal administration, that the most cunning, the most skilled and the most daring offenders are migratory in their habits; that they do not locate themselves in a particular town or district, but extend their ravages to wherever there is the most open field for crime, or where the chances of plunder most present themselves. That this is the case will be attested by the police of almost every large city, whose experience will have failed to connect the most extensive and best planned robberies with their resident known thieves.

"A knowledge of the foregoing matter, induced me a few years ago to desiderate some mode by which descriptions of committed prisoners might be circulated amongst the Governors of leading jails, but numerous difficulties at first presented themselves; periodical visits of inspection might be useful, but they would have two great disadvantages; first they would withdraw the Governor or confidential officer too frequently from his jail duties; and secondly, they would entail expenses which the counties could not bear. Written descriptions, in very marked cases, might be effective; but as in the great majority of instances, it would be found impossible to make them sufficiently precise, they would only tend, where parties were sent to identify, to frequent disappointments and useless expense.

"Photography then suggested itself to my mind. I have now an apparatus in my jail which I use daily. I have rendered it most subservient to the object for which it was designed, and through its use have brought to justice several hardened offenders who, being unknown in my neighbourhood, would otherwise have escaped with inadequate punishment.

"J. H. came into the Bristol jail upon commitment for trial a perfect stranger to me and my officers. He was well attired but very illiterate; the state of his hands convinced me that he had not done any hard work, whilst the superiority of his apparel over his attainments let me to suspect that he was a practised thief. I forwarded his likeness to several places, and soon received information that he had been convicted in London and Dublin.

"The London officer who recognized him by his portrait, was subpoenaed as a witness, picked him out from amongst thirty or

forty other prisoners, and gave evidence on his trial in October last, which led the Recorder to sentence him to six years penal servitude."

Sir Walter Crofton observes :—

"The introduction of photography into our prisons is a measure which I think all will agree should be concurrent with legislation, which not only notes 'habitual offenders' as a class, but entails upon them cumulative punishments, and other penal disabilities. As soon as the man enters the first prison, the most unmistakable record of his identity is at once registered in the prison books in the shape of a photographic portrait. 'No, no' exclaimed an eminent thief when he was placed before the machine, stretching forth his hands so as to hide his face. 'No, no, you are taking away my bread.' The man was actuated by a prudential regard for his professional interests, when he should once more be released from jail."

III. Police supervision and control over discharged offenders. In Europe this is extended not only over convicts when discharged, but over ordinary criminals.

The following extracts from Miss Carpenter's work give the replies sent by the Courts of Europe to the Parliamentary Committee of 1856 :

Belgium.

"In Belgium at the expiration of their sentences, persons convicted of crimes are placed for a period of more or less length under the surveillance of the police."

Austria.

"In Austria as soon as a prisoner has finished his time of imprisonment, the administration makes a report of his private circumstances and of his behaviour during the time of his detention, and delivers it to the head of the police; but the delinquent himself is to be sent to the place *where he resided before*, and there he is subjected to more or less surveillance by the local authorities."

Prussia.

"The measures of precaution taken by the Government in regard to discharged prisoners consist of placing them under the surveillance of the police: and the exercise of this power has been regulated by a special law dated 12th February 1850. It is the custom in Prussia, Baron de Katte tells us in his evidence before the same committee, to place a man under the surveillance of the police after the expiration of his sentence. This forms a part of his sentence; supposing a man has been condemned to two years confinement, he is generally sentenced to three years of the surveillance of the police. It is not found practically that this surveillance is any hindrance to him in getting employment. The return of the prisoner is notified to the Government of his district, and steps are taken to obtain monthly reports of him."

Bavaria.

"As a measure of security liberated penitentiary convicts are, after the completion of their sentences, subjected by law to a special surveillance of the police at their place of abode during five years.

Hanover.

"As to the manner of the surveillance in respect to individuals dismissed from the penal institution, general rules cannot well be given; the greater part must be left to the judicious consideration and circumspection of the local authorities. The precautionary arrangements for surveillance and care should be prepared before hand, so that the individual on his arrival may be furnished with the proper directions; such measures will be taken according to the reasonable judgment of the Magistrate, as may tend to lead the dismissed to a regular use of his personal liberty, and regular mode of life, keeping in view the more or less dangerous inclinations manifested by him. The extent of surveillance is not to be greater than the circumstances require. *The public safety however must always* be kept in view. Afterwards it may be considered for what the dismissed is to be ordered; perhaps to report himself at certain times at the police of the circuit or place; for instance in case of a pretended journey from the place or neighbourhood. Such control can usually cease at the end of a year if urgent reasons do not require a prolongation. In case a prisoner liberated from the penal institutions, and standing under surveillance, desires to change the district to which he is directed for another place on account of any good reasons, information must be sent to the Magistrate of the district to which the man intends to go.

"If any man under surveillance does not obey the regulations, or withdraws secretly from the district assigned to him, police punishment is to be inflicted on him; and when requested he may be treated in the same manner as suspicious and incorrigible vagabonds.

Saxony.

"The laws of Saxony do not prescribe any fixed measures of precaution as to discharged prisoners: all of them however who can show evidence of reform are sent back to their native place; and unless some other district should voluntarily receive them, they cannot quit their domicile until they have earned in it a certificate of good conduct for one year. After they have gained such a certificate no district is at liberty to refuse their admission. *The police of their native place are warned before hand of their approaching liberation, with orders to exercise a surveillance over them.*

Nassau.

"In Nassau dangerous convicts are placed after their liberation under the surveillance of the police for not less than one or more than five years.

This surveillance consists of:—

I. The superior police authorities are empowered to direct, that the individual under their surveillance do not quit his domicile, or the limits assigned to him, after night-fall without permission from the police.

That such individual do not remain in any place, if his presence there seems dangerous.

II. The judicial and police authorities may at any time visit the domicile of such individual.

The breach of such orders is punished with imprisonment

Baden.

"The native who is condemned to imprisonment in a house of correction is at the same time, as far as public safety seems to be endangered by him, sentenced to be placed under the surveillance of the police: this superintendence cannot be awarded for less than one year, and not longer than for five years.

"The effects of being placed under the superintendence of the police are the following:—

"I. The person placed under such surveillance may not leave his native place, or any other domicile, which with the permission of the police he may have chosen, during the night, without being allowed to do so by the Mayor; and not for eight days without leave of the police authorities.

"II. The judicial police authorities have the power to search his house at any time.

"If the person placed under the superintendence of the police leaves his domicile or place of residence without permission, he is at the request of the police authorities punished with three months' close confinement.

"The person placed under the superintendence of the police is freed from it for the time to which he has been sentenced, by giving bail for a sum to be fixed by the judge.

"The bail is forfeited when the person placed under the superintendence of the police commits a new crime which is punishable with imprisonment in a house of correction, and such crime has been committed within the time for which bail has been accepted.

"If the new crime punishable with imprisonment in a house of correction is less than the first, the bail can be declared in part forfeited, in proportion to the crime.

"The bail forfeited to be paid to the Treasury, deducting the indemnification to be made to the party offended against, if the author of the offence is not able to furnish the sum.

The Hanse Towns.

"In Hamburgh dangerous criminals are placed under the surveillance of the police.

"In Bremen no regulations have been made with regard to placing criminals under restraint after their liberation; nor are they necessary, as such restriction may at any time be decreed by the sentence of a Court of Justice.

Wurtemberg.

"When the authorities of the district in which the prisoner's domicile is situated receive notice as to his approaching release and capabilities for work, they are bound to provide for at least his temporary employment, and to make every arrangement consistent with that object:—and for this purpose the extra wages (if any) which the prisoner has earned while in prison, or any other property that he may possess, is to be sent by the Executive of the prison to the said authorities.

"If the prisoner departs from the route laid down in his certificate of liberation, he renders himself liable to be treated as a vagabond.

"The authorities of the district in which the prisoner's domicile is situated, must advise the executive of the prison on his arrival; and not till then is his name removed from the prison roll; but

when he does arrive the police regulations are put in force for his surveillance. The liberated convict need not be sent home if he can mention some other place, to the satisfaction of the prison authorities, where he will be able to obtain a livelihood; and in that case they must be informed of his arrival in that place. Nevertheless the authorities of the district in which the released convict's domicile is situated must be informed of it, and the prison executive must satisfy itself of his arrival in the place of his settlement. Prisoners who have committed an offence punishable by confinement, or have been guilty of repeated vagrancy, if the sentence does not order them to be placed under the surveillance of the police of the district in which the prison is situated, must be conveyed on their release from prison to their respective houses, in order to put in force the *further police regulations* against them.

"One of the principal means adopted for the moral and social reformation of liberated convicts, is the confining them to certain prescribed limits.

"This is accomplished by the local police with the assistance of any trustworthy person, and particularly of the district clergy and members of the society for the care of liberated convicts.

"The persons so placed under restraint are summoned once a week before the Inspector of the district, on some day *not previously* fixed, and he interrogates them as to their circumstances, employment, &c., and reports accordingly to the court of the district. Sometimes an inhabitant of the district takes upon himself the duty of superintending one of the persons so restricted, and he reports his conduct to the Inspector once a fortnight, and the latter to the court of the province every quarter of a year.

"Every person under such restraint, if he is in receipt of assistance from the public purse, must use his best endeavours to find employment, and if he cannot succeed must accept such as the Inspector finds for him.

"A list and description of all the persons under restraint in the district is kept at each police office, together with an account of the duration of the sentence, the limits prescribed, and the nature of their employment; copies of which are sent to the chief and all the neighbouring offices.

Sweden.

"In Sweden discharged prisoners are placed under the surveillance of the police until they can succeed in either getting themselves hired in service, or finding some other means of subsistence. If in a given time they neither procure one nor the other, they are liable to be *again* sent to the public works for a definite period."

Miss Carpenter observes on the foregoing:—

"Such are the principles generally recognized in these states. Offenders after receiving punishment are to have every opportunity of regaining their character, and a benevolent public helps them to do so, and is ready to receive them on condition of good conduct; but at the *same* time society *must be protected*, and this can be done in the case of one who has broken the laws of the country, *only by a special watchfulness* being exercised over him, to arrest him in his career if he shows a disposition to continue the same evil courses. In the states of Europe from which these returns are sent, there appears to be no doubt as to the justice or the expediency of this course."

In the United Kingdom, as I before observed, police surveillance involving certain obligations on the convicts is only by law exercised over convicts who are out of prison under tickets of leave. Over other offenders the police can only exercise a "watch."

Sir Walter Crofton observed in 1864, at the Social Science Meeting :—

"It is unnecessary that I should do more than briefly notice the subject of police supervision over licence holders, all-important as that subject is. It has by the 4th clause of the Penal Servitude Act now become the law of the land. It will be seen by the wording of this clause that the chief officer of police has power to receive a monthly report of the convict, at such time and place, in such manner, and through such person as he may appoint. Under well considered instructions therefore we may hope to find the chief constable availing himself of the co-operation of prisoners and societies, magistrates, clergymen and other responsible persons."

The remarks by the Reverend W. L. Clay, the well known "Prison Chaplain," apply so forcibly to police supervision over habitual offenders, whether convicts or otherwise, that they may well be here recorded :—

"There is the same prejudice against the liberates from common jails as there is against those from convict prisons, and yet it has been proved in many towns, and notably in Birmingham, by Mr. Burt, that with a fair recommendation a quondam prisoner in his true character as an "*honest thief*" can readily obtain work, and the very society for the assistance of liberates which is affiliated to the English system, find masters for the great majority of its clients, though it never sends them out with a lie, or at any rate a "*suppressio veri*" in their right hand. These facts are a complete answer to the plea that police supervision, by branding men as criminals cruelly robs them of the means of livelihood. But we go further and maintain that in mercy to the old offender we are bound to watch him, in order to render his return to crime as difficult and perilous as possible."

Mr. Clay was writing in 1862, when in England there was no proper police supervision over ticket of leave men, and prior to the last Act by which that is now insured; he says :—

"It is one element of strength in the Irish system that the convict, carefully taught to expect almost infallible punishment if he relapses, soon turns his mind to honest projects.

"It is one element of weakness in the English system, that the convict can look forward to a new course of felony, highly lucrative and not by any means over hazardous. And by showing that supervision is no real hardship to the quondam thief, we incidentally prove that it will never become a detriment to the public."

On this point Mr. Frederick Hill, late Inspector of Prisons, and whose opinion is of acknowledged weight, writing so far back as 1853, observes :—

"If concurrently with the organization of a more efficient police, and a more effective administration of the criminal law, the plan recommended in the text for keeping up for a certain period a surveillance over liberated prisoners, were brought into operation, there would probably after a time be few persons at large whose freedom was dangerous to society ; still, with reference to these few, and previously as a means of reducing the numbers to a few, it is very desirable that the law should give power to require any person who has once been convicted of theft, and whom there may be reasonable ground for believing to be again in the practice of dishonesty, to show by what means he is getting a livelihood.

"All who have had opportunities of obtaining information from police officers must be aware that there are now many criminals at large who are well known to the police, but who in the present state of the law cannot be touched, owing to the difficulty of obtaining the special kind of evidence required ; and it should be remarked, that this very class of offenders is the most hurtful to society, since it consists to a great extent of receivers of stolen goods, and other persons, whose aid is essential to the carrying on of crime as a system ; but if a power existed to compel these traders in iniquity to show by what means they were living, their occupation would at once be destroyed, and the machinery on which thieves depend for the disposal of their goods would fall to pieces.

"I have already had occasion to refer to the numerous instances mentioned in my early reports, (and others scattered through my subsequent reports) where the chief offenders in a village town or district, those who probably committed three quarters of all the crimes, were perfectly well known to the police, and where, nevertheless owing to the existing restrictions on the kinds of evidence to be received—restrictions which once perhaps might be necessary, but which now seem to be mere legal pedantry—and owing also to the practice of allowing a person who has once been apprehended and shown to be a criminal, to have his liberty again before he has given proof of amended habits, these *habitual* offenders go on, for an indefinite period, to pilfer and rob, to excite around them uneasiness and alarm, and to train young offenders as their assistants and eventual successors.

"It is objected to the principle now under consideration, that it is foreign to our spirit of freedom. If by our spirit of freedom be meant the freedom of criminals, I readily agree in the remark. The less liberty, however, they have the better ; for as already observed, the *robber's freedom* is the *honest man's bondage*. But if it be intended to imply that even with the high minded body of men now entrusted with the administration of the law, the liberties of the honest and peaceable portion of the community would be endangered by the adoption of such a rule, I for one do not partake in those fears ; and I would suggest for the comfort of those who do, that if there be peril in the case, our liberties have happily survived the peril for a very long period ; for not only is the principle now contended for *not new*, but it holds a prominent place in one of our noblest statutes, the great Act of Elizabeth, providing relief for the poor ; part of the first section of which directs that persons to be called overseers of the poor, 'shall take order from time to time by and

with the consent of two or more justices of the peace, for setting to work all such persons, married or unmarried, having no means to maintain them, as use *no ordinary and daily trade of life to get their living by*, while the fourth section directs the said justices of the peace or any of them, to send to the house of correction or common jail, 'such as shall not employ themselves to work, being appointed thereunto as aforesaid.'

Mr. D. Hill, Recorder of Birmingham, in his charge to the Grand Jury in 1853, specially alluding to this subject, surveillance and control over discharged convicts or habitual offenders, proposed a system by which such men as persist in criminal pursuits, having no ostensibly honest means of living, might be brought to trial and punished.

Whilst urging the necessity of penal measures against this class, Mr. Hill continues:—

"And now let me gentleman ask a plain question. Is a man who has already been convicted, whose conduct is such that a jury is satisfied he is still a malefactor, who being called on to explain how he obtains his livelihood has no answer to give, who is so distrusted by all the world that he cannot find bail for his good conduct, is that man, that pest of society, to remain at large?

"Is the convict then, I ask, to exhaust all our sympathies? Are we to have no thought for the myriads of honest or faithful subjects exposed to the same frightful perils, deeply feeling the want of protection, the comfort of whose lives is often-time destroyed by the perpetual fear which harasses their minds?"

"But gentlemen, we almost always find that an over-wrought strictness in one direction is balanced by some glaring laxity in another. Writers who evince the greatest trepidation at the proposal to which your attention has been drawn, themselves urge the adoption of an alternative infinitely more perilous to innocence than the most distorted imagination can figure to itself out of mine. Deliberate advice has been given that each man should defend his house with fire arms. Let us pause for a moment to examine what this advice implies. It implies that a person suddenly aroused from sleep, in the dead of the night, and in all the disturbance of mind which an impending conflict must produce, is, while pointing his blunderbuss and drawing the trigger, to *accuse, try, and condemn* a suspected burglar discerned for an instant in the dark, and to execute upon him the irrevocable doom of a capital punishment: surely for such very fastidious legislators this is a somewhat startling recommendation. But what has resulted from this advice? Gentlemen, within a very short interval of time two innocent persons, one of them an officer of police, a protector instead of an assailant, have fallen; have fallen too by the hands of clergymen who (as we should all agree) if the power could be safely exercised by any class of the community are best entitled to the trust, by the self-restraint and the merciful spirit which pertain to their sacred calling, and by the reluctance which above all others they must feel at sending a fellow creature to his account with all his sins upon his head.

"Nevertheless gentlemen, if the law will permit known ruffians to remain at large, these barbarous remedies, perhaps cannot, and most

certainly will not, be dispensed with; yet who does not see that any method of trial, however rude and defective, even Lynch law itself, is infinitely to be preferred."

I cannot conclude this subject, "police supervision and control over habitual offenders" without drawing attention to what has been most ably shown by foreign and other writers, that "police surveillance" must be carried out on the principles adopted in Ireland as previously described, and must *not* be carried out as is too often the case on the continent merely as a general law, to be applied only to the *class* and regardless of the *individuals*. On the continent, as I have shown, many countries have adopted the principle of placing criminals of a certain class under police surveillance; and of late years the orders in force in those countries have been directed to the *benefitting* the criminal by that surveillance as in Ireland, and not to the isolating him from society as one of an outcast class. Great care is paid to the education of the children of these "habituals," and every effort is made by private societies as well as by the police to get these men on discharge the means of honestly earning their livelihood. In former years such was not the case, and the surveillance in too many cases, owing to the peculiar restrictions of the continent, made the discharged convict an isolated, cut off man, one at whom society pointed but did not help.

Baron Hollendorff, in 1861, observed:—

"By *continental* supervision a criminal class is created where it formerly did not exist; by the *Irish* supervision a criminal class will be destroyed where it had commenced to form itself.

"In France and in Prussia police supervision is little more than a moral stigma, a predestination to a career of crime, under the impression of which criminals lose their own moral confidence and their hope of a *future reception* into the honest part of the population. Employers are *deterred* from any communication with discharged criminals placed under the supervision of the police. As soon as it becomes known that a man is placed under the supervision of the police, a prejudice arises against him which he cannot overcome. The police on their part can make *no distinction* between different individuals; it is sufficient to know the fact that a man is under supervision.

"It would be quite different indeed to make police supervision dependent on the prisoner's behaviour during his incarceration. It would be the grossest error to compare the Irish institu-

tion of police supervision to the continental system which bears the same name.

"The Irish police, as far as I can see, do not make a constant show of distrust towards discharged prisoners. It is their duty to give assistance to those who according to the competent explanations of the prison authorities are entitled to confidence. It is their duty to be an intermediate institution between prison officers, discharged prisoners and employers—an institution established in order to carry out the views of the prison authorities and to remove the prejudice of society against discharged prisoners, who are to report themselves to a police station, not for the purpose of being made the object of re-search and imminent prosecution, but for quite an opposite purpose, viz., of affording a proof of their good behaviour, and of testifying in their own favor. A comparison cannot possibly be admitted between the Irish establishment of supervision, which requires discharged criminals of good character to report themselves to a constabulary office, and the continental supervision, by which, on mere suspicion, discharged prisoners are dragged from their beds by night, or employers warned against those towards whom they felt inclined to show some sympathy.

"It may however be a question deserving further attention whether it be desirable to have a more general application of police supervision in those cases where no conditional pardons are granted, and where a prisoner, on account of his *bad behaviour*, has undergone the full term of his *judicial sentence*.

"As we have now in the Irish institutions a supervision of *confidence* with regard to offenders in the course of reformation, there may be devised a supervision of *distrust* with regard to offenders who belong to the criminal class, and have until then remained inaccessible to moralizing efforts. Continental supervision may be rendered applicable to the *latter* class, with a view to preventing a check against such as are according to all probability inclined to the commission of new crimes. "*Habitual offenders*" should, as has been sufficiently proved, be legally distinguished from that class of criminals whose crimes appear to be a result of temporary circumstances.

"In proportion to the increasing number of sentences of short imprisonment for reconvictions, the impression on the criminal's mind will be gradually diminished or at last totally extinguished. Hence the necessity for long terms of confinement in those cases in which previous imprisonment has proved ineffective: and in *addition* to this lengthened period, police supervision should be imposed on those that have been refractory to the prison rules, or have been accustomed to regard prison life as an accidental pause in their career of crime. It should be imposed until it be evidently proved by discharged prisoners of this *latter kind* that their former habits of profligacy and idleness are broken off. No fear ought to be entertained that the administrative authorities might abuse their power; errors in individual cases may occur, as in all human affairs. Sufficient responsibility on the part of prison officials would counterbalance these errors. Moreover, individual errors are scarcely to be compared to a general neglect of the interests of society. It will be the duty of the legislation to organize supervision, whether it be entrusted to aid societies or to police magistrates, for the double purpose of protecting discharged prisoners of good character against those who

have proclaimed crime to be their calling. The two kinds of supervision must employ different means in order to obtain their different ends."

IV, Prison officers.

The Directors of Convict Establishments in 1830 thus reported on their early difficulties:—

"One of the principal defects has been the inefficiency and unfitness of many of the officers for the performance of the duties required, which in a public works prison are of a very arduous and responsible nature, and demand (in order to be satisfactorily carried out) men possessing a high moral standard, combined with an amount of energy and physical strength found only in persons in the prime of life. Many of the warders were men much advanced in years, and infirm, therefore totally incapable of efficiently performing any duties requiring either much exertion of body or energy of mind. The numerical insufficiency of the staff heretofore employed has been such, that it has been found impracticable to have the same officer daily in charge of the same prisoners on the work; the evils arising therefrom must be apparent to all; the officers being of course comparatively but little acquainted with the character of the prisoners under their charge, the difficulty of fixing the responsibility for the proper execution of any works in progress on any individual officer, and the impossibility of keeping any efficient record of the conduct and industry of the prisoners, causing a total absence of all stimulus to industry or good conduct on their part. Proper means are at present taken to ascertain whether candidates for employment in the convict service are duly qualified, previous to their selection, which is now made on probation for the first six months, during which period the Governor is required to observe carefully and report to the Directors at least every month on their qualifications, abilities, general character, habits, temper and disposition. Should these reports not prove satisfactory, and should the Directors be convinced that such persons will not eventually prove fitting and desirable to be entrusted with the charge of prisoners, their services will be dispensed with, and their appointments not confirmed.

"We are establishing a stricter discipline amongst the officers, whilst at the same time we are endeavouring gradually, as far as circumstances will admit, to remove many discomforts and minor evils under which they have heretofore labored. We have taken measures to ensure a careful supervision of their conduct, character, zeal and ability, and to cause such records to be kept as will enable the Directors at all times to form a correct, sound opinion of their respective merits. We hope further, by making the rewards and promotion of the officers contingent solely on their good conduct, ability and faithful service, to raise their character and elevate their position generally, and thus to render the situations of Warders in the Government prisons more generally sought for by a superior class of the community."

Mr. Frederick Hill thus observes on this important point, the qualifications of prison officers:—

"The lowest officer in a prison and the keeper of the smallest lock-up house, should in my opinion be a person superior in his habits to the ordinary run of the working classes, that he may

constantly present to the wrong-doers who will come under his charge, an example worthy of their respect and imitation.

"In the same way that in the improved Lunatic asylums of the present day, keepers are sought for of unusually sound and vigorous minds, so those who are to have the care of criminals, should be men of sterling honesty, free from those little practices of deceit which in ordinary persons might pass without much animadversion. They should be distinguished, too for habits of sobriety, industry, order, and cleanliness; they should be very intelligent, kind, and good-tempered, yet firm.

"Again, they should be acquainted with several kinds of useful labor, and should be at least able to read and write fluently. Lastly, it is essential that they should have a liking for the kind of occupation in which they will be engaged. The higher the officer's position the more varied and numerous are the qualifications required. The Governor of a large prison should be a person of strong native talent, of great decision of character, yet of kind and affable manners; he should possess great insight into human character, and into the various causes of crime, and the springs of action; and he should be influenced by a strong desire to promote the permanent welfare of the prisoners committed to his charge. He should be possessed of powers of command and of holding others to responsibility; and in order to maintain these effectually, it is necessary that he should be able to determine what every one under his authority can reasonably be expected to perform, and to judge of the manner in which every duty is discharged. An extraordinary degree of intelligence is not absolutely necessary in a discipline officer of a convict prison: but good temper and a fair degree of discretion, combined with strict moral habits and firmness of character, are qualifications without which he cannot succeed in the discharge of his duty."

V. Education of prisoners.

In Ireland, in addition to the usual instruction imparted to classes, a lecturer, a gentleman very competent and very devoted to his duty, addresses to them plain speeches on subjects calculated to arouse their interest and awaken their faculties. As this point, education, is in India considered to be one of difficulty, I give the following copious extract showing the practice in Ireland, and those general principles which may be applied to the education of the human mind in the east as well as in the west:—

"Mr. Organ, the lecturer to the prison, gives the men evening lectures on subjects calculated to communicate such knowledge as may be advantageous to them in their *future life*; besides storing their minds with useful information, and drawing them off from improper subjects of thought. He is much more than a lecturer; he is a friend, in the highest and best sense, to those who perhaps never before had a friend worthy of the name; he sympathizes

with their difficulties and trials; and when they are about to enter into the world, he arranges for their emigration if they wish to leave the country.

The subjects of the lectures for one week were:—

Monday.—The sun, what it is and what it does.

Tuesday.—Labor, its dignity and rewards.

Wednesday.—Emigration, its advantages and disadvantages.

Thursday.—Crime, its profit and loss.

Friday.—Irish intermediate prisons, their rise, progress and results.

Saturday.—Competitive examination.

"Mr. Organ gave the men on the present occasion one of his forcible familiar addresses, and their countenances clearly indicated how completely he touched their experiences. We had now a good opportunity of studying the characters before us. Some were grey-headed old men, evidently ignorant and stupid, if not hardened in crime; some quite young, perhaps only eighteen; the countenances of some were not unpleasant, and had evidently been greatly softened and refined by the discipline they had undergone; while the bulk of them were certainly unprepossessing, though not bad, and were responsive to good sentiments or advice. One would not have imagined oneself in such an assemblage—all convicts of a deep dye. Those of us were particularly struck with this, who had elsewhere seen so very different an aspect in a number of convicts in other prisons, where the hard, dogged, lowering look gives unmistakable proof of a bad nature, checked and repressed, *not changed*.

"After the address the men arranged themselves in two parties, and a man on one side was selected to propose a question to the other. This being satisfactorily answered the challenge was returned, and each side seemed stimulated by a friendly rivalry to surpass the other; to elicit as much information and call out as much real thought and opinion as possible. Sometimes a discussion arose, in which Mr. Organ was called on to take a part, which he did, not dictatorially, but with only the superiority arising from his own greater knowledge and better spirit and judgment."

The Directors of the Convict Prisons in 1856 thus report:

"Sensible of the very great importance of establishing a proper system of education in prisons, through which unfortunately thousands of human beings must pass, who are in turn subjected to its influence, we are gratified at being enabled to state that although much of the past year has been taken up with arranging school-rooms, classifying prisoners according to their attainments, appointing school masters, &c., a great desire has been evinced by the prisoners to receive instruction; and this is the more remarkable as proceeding from some advanced in age, who at the commencement of the year attended school with the greatest reluctance."

The Head Master of Fort Camden thus writes:—

"Were the prisoners subjected to a rigorous examination in literary subjects, their progress might appear slow, for many of them were aged men, of blunted intellect, and *speaking only the Irish language*; but this would be an unfair test, for most of them have

acquired much useful information, though incapable of answering correctly for want of expression. Those who cannot read or write, so as to gain information from books, have been taught orally and by lecture something of life in general, and are partially educated. It is most amusing and edifying to hear these old men teaching each other geography by pointing out on the maps the several countries, under the Irish names from the different colors, that mark them. Those who have learned to read, and who also speak Irish, very generally translate the subjects and substance of their lessons into Irish for those who have failed to learn to read.

"The development of the intellects, and the turning of aged and almost inflexible minds from their natural bias, must be a task of some magnitude; yet I have succeeded in rendering my instructions efficient in that way, by consulting the various tastes, by analyzing and explaining the *simplest and most familiar* subjects, and by selecting that *kind of instruction* most likely to be *practical and useful through life*; but above all, showing by conclusions and morals drawn from the simplest lessons in our national school books, how perverse and grossly mistaken they have been in most of their preconceived opinions: never omitting when expedient to place before them the beneficence of Providence; the admirable mechanism and just arrangement of all the works of the Creator; the necessity of regular government, and the evils resulting from its want in savage countries; and the iniquity of violating the laws of society, thereby thwarting Providence and paining and injuring our fellow beings. These principles I do not very often inculcate by a formal lecture, as I find by experience it would be attributed to interested motives, being an officer in the pay of Government, and would not have the desired effect; but I do it rather incidentally; for on reading the lessons contained in the national school books which we use the explanations warrant and admit of such conclusions; they are not therefore questioned but very generally received and treasured up in the mind.

"The mode of teaching or conveying instruction which I generally pursue is that approved by Dr. Whateley in the preface to his lessons on reasoning, viz. first preparing questions and ascertaining what the prisoners knew of the given subject; secondly, giving instruction and explanations; thirdly, examinations and recapitulation of the instructions in a very concise form, summing up the essential principles necessary to be impressed on and retained by the mind. The time allowed for school during the day is employed in teaching the several classes spelling, reading, explanations of lessons, arithmetic, grammar, geography, &c; and the hour every evening is applied to simultaneous instruction, or lecturing and writing alternately.

"The subjects for which they have most taste are, reading, writing, arithmetic, and as these are the most likely to be beneficial to them through life I have encouraged that taste, and paid much attention to those branches. The maps of the world and of its several territories are not used for the mere purpose of teaching geography, but serve as works of history, chronology and morality; because by their means, I bring vividly and practically before the mind the rise and fall of empires, nations and individuals; the manners, customs, failings, virtues, resources industrial pursuits, &c. of the different nations exhibited on them; the advantages arising from international intercourse and commerce; the natural dependence of nations and individuals; and the folly of national and personal antipathies.

"I frequently stimulate the men here to the future practice of provident and industrial habits, by bringing under their notice the great things accomplished by such persons as William Hutton and others; by pointing out the necessity of self-reliance, as all other expectations of aid from friends or dishonest courses become failures in the end; by recommending each to apply himself to some pursuit for which he evinces a taste; by explaining the necessity of husbanding our time properly; by making the changes from one occupation to another serve as so many recreations; and by various other instructions which every day's experience suggests.

"In teaching agriculture I adopt a method which is rather the converse of that usually followed, as I introduce first to them the unskilful mode of farming pursued in the neighbourhood of the prison, and the improvements that could be effected by levelling ditches, draining, deep digging, rotation of crops, house feeding, drilling, and a careful preservation of manures. I next proceed to the principles of the science of agriculture, explaining by illustrations and instances the simple, compound, organic and inorganic substances; the volatile and fixed ingredients in vegetables; the substances that the atmosphere and rains supply, and those which must be added to the land in consequence of the exhaustion caused by cropping.

"It may not be amiss to state here, that if it were expedient to employ the convicts in general at trades and agriculture, I am convinced it would contribute to humanize, improve, and prepare them for the *sort of labor they will have to perform when liberated.*"

Mr. Rourke, an Assistant School Master, thus writes:—

"In the course of my instructions to these men I could not help being frequently struck with the vast amount of indifference as to purely scientific or abstract knowledge which existed among them; this I attributed in the great majority of cases to two causes; first their total ignorance of the practical bearing of even the commonest and most useful branches of science, and secondly, a certain absence of *moral energy or elasticity* of character, which would have led them to look beyond their present degraded position to one of future usefulness and respectability, in which knowledge might be applied to beneficial purposes.

"The removal of these causes and with them of their necessary and immediate effect, the indifference above mentioned, was a duty to the performance of which I felt the necessity of directing my best and most earnest efforts. Accordingly I have omitted no opportunity of pointing out to these persons the advantages of a good elementary education; the various ways in which it may be and has been useful, and the folly as well as wickedness of despairing to do good because of mere temporary reverses or privations.

"By these means as well as by popularizing the subject of instruction, so far as to bring it within the easy comprehension of those for whom it is intended, I have succeeded to a great extent, in not only removing the obstacles to, but even in creating a taste for, useful knowledge. Of this result the exclusive and increasing demand for books, for the purposes of self-improvement in the wards during the evenings, leaves little room to doubt."

Mr. McGowan, School Master, writes :—

"The education which should be imparted; in order to be reformatory in its tendency, must have for its object the implanting of right principles in the hearts of the convicts who come within its sphere of action. Its aim must be to engender self-respect, so as to induce shame; to teach the arts of reading, writing and arithmetic, a knowledge of which is necessary to fill even the humblest situations in life; to infuse a love of honest industry, to cultivate and exercise the reflective and reasoning powers; to foster kind feelings, to instil sound principles, to uproot perverted notions of right and wrong, and to promote good habits. Reading, writing, and arithmetic are taught according to the national school system, with this difference that the prisoners are treated with all the respect due to mature years, and at the same time all the pains and trouble necessary for infants are taken with them. The prisoners are in fact overgrown infants, possessing all their little foibles and little whims, without that innocence and simplicity peculiar to childhood, but perfectly childish as regards the desire to be praised in order to gain courage to persevere. I have constantly impressed on each teacher that to be efficient it was essential for him to be at all times cheerful with the prisoners, pains-taking and yielding; without losing his position or compromising his principles; that he should be always on the alert, when a prisoner is exerting himself at his lesson, however ludicrous his efforts may appear; to suppress with a resolute disapprobation any attempt on the part of others to laugh at, or turn into ridicule the prisoner so engaged; and above all to be particularly cautious himself not to set such an example."

Mr. Ryan, Assistant School Master, remarks :—

"In the school we find another and very potent auxiliary; here all restraint is set aside, obedience and order are secured more by appeals to their good sense than by rigid discipline; all are under the teacher's eye: he knows each and every one, calls them by their names, and for the time carefully avoids *numbers*, badges, and everything calculated to awaken in their minds a sense of their unhappy situations, unless in cases where it is necessary to refer to such as a reminder of the misfortunes they have brought upon themselves by their thoughtless indiscretions. Teachers and pupils recognize each other, have mutual dependence on one another, and by a little forbearance and encouragement on the part of the former, a reciprocity of action is established which in many instances is attended with the most happy results.

"The lessons which they read have all a moral tendency, and serve the double purpose of perfecting them in their reading and of fostering within their breasts a love of the great Author of our existence, by giving them more extended notions of His power, wisdom, and goodness; of His concern for His creatures, and of the ingratitude of sinful man in defying his holy law. They also point out their duties towards themselves and their fellow-beings, inculcate a love of industry and labor, the necessity of patience and fortitude under trials and sufferings; a deference and submission to the laws of the country:—in fact they lay before them as in a map, all their duties, social and moral, and with the expositions, repetitions and interrogations of the teacher they can hardly fail to make some impression even on the most obdurate heart."

This brief sketch of the Irish system may well be closed with an extract from a report by Baron Von Holzendorf,

Professor of Law in the University of Berlin, who personally examined the working of the system in Ireland :—

“ In a few words, the Irish system unites in itself all the correct principles of previous systems of prison discipline, forming a thoroughly remodelled general organization, by means of which the convict, after a *series of gradations*, is led to liberty, but still kept in check by the deterrent principle of supervision. By this means are reconciled the punishment of crime for the infraction of the laws, and the requirements of society, with the theories of benevolent and compassionate individuals, and the associations which have been formed for the assistance of the discharged offender. Only thus can be obtained the true consciousness in the convict's mind, of the great injustice which he has entailed on society by his guilt. There still exists much ignorance as to the requirements of justice, and its relations with the object of reformatory discipline in carrying out punishment. Originating in, and founded on justice, the nature of punishment consists in discipline, and should never be otherwise used than so as to serve the further development of the better qualities of humanity. The cause of punishment can alone be considered as an evil, and its effects should never produce any but good results. A system of punishment which produces *torpor and inaction of the mental faculties is just as unreasonable as the old exploded coercive treatment of the insane*.

“ The accomplishment of justice consequently requires the reformation of the offender, by such a system as enables the criminal to *perceive the necessity* for his punishment, and the amount of his guilt ; and it is solely by penal discipline that the influencing motives of the judicial sentence can be reproduced in the minds of the convicts.

“ The reformatory treatment of criminals is indeed not always required, for there are some cases of formal breaches of law, not otherwise criminal, in which it would be unnecessary to require a reformatory treatment.

“ In such cases it is only necessary that the punishment should be a manifestation of deterrent justice, but it ought to be such as would neither *prevent moral progress*, nor *entail danger of corruption by association*.

“ Any punishment producing by its forms of discipline, despair, revengeful and angry feelings, or which blunts the moral perceptions, or produces listlessness, is the *greatest crime* which a Government can commit, and is an *outrage* against religion, morality and law.

“ It is not my object to set forth here how the means of reformation must always vary in their extent and application for different individuals, according to the nature of the criminal's perceptions.

“ The Irish system, resting on deep psychological truth exhibits, in my opinion, those forms of punishment which in affording the greatest number of reformatory means, alone seems efficacious to bring about a transformation of the moral feelings that have become depraved by serious and habitual crimes, so as to become rightly disposed to will or wish for what is good and just ; and this change must be effected through the free agency of the criminal, who voluntarily submits to the punishment which justice requires, and so gives up the power over his will, which no prison bars can control ; accepting willingly the restraint in which he is kept as an atonement for his guilt, and feeling it a duty to submit to the punishment he has deserved. It can be of no consequence whether the external arrangements of the Irish institutions be copied, and that associated penal labor for the second stage, precisely as in Ireland, be adopted. It is probable that in a continually modified and

graduated system, *originating in separation*, other forms would after a time be arrived at, but the principles embodied in the progressive and graduated mark system in intermediate prisons, in *discharge on licence* and *police surveillance*, seem to me quite indispensable; and even when we examine what was effected by the Italian physician, Girolami, as related by Mittermaier, there appears nothing more than the same principles on which the Irish system is based. There is one circumstance which I must not forget in taking leave of my subject; forms of Government and prison systems in their effects, and in their execution are alike dependent on human weakness and human power; and on this account I must acknowledge that the results obtained in Ireland bear witness to an amount of zeal and activity beyond all praise on the part of the Irish officials, from the Viceroy to those whose duty it was to carry out the system. I have seen how Sir Walter Crofton almost every day took anxious trouble about the condition and complaints of individual convicts, how nothing seemed too *insignificant* for his attention, and how perfectly impressed he was with the sublimity of his task. On one occasion he spent an hour in trying to convince a convict that he had no right to complain. To him the Irish system is principally indebted for that spirit of humanity and truly Christian charity, which behind bolts and bars respects the rights of even the most fallen human natures."

CHAPTER IV.

MEASURES CONNECTED WITH REFORMATORY TREATMENT OF OFFENDERS.

There are several important measures connected with the treatment of prisoners, prevention of crime, &c., which not belonging exclusively to the Irish system have purposely not as yet been noticed, but demand serious consideration. They are:—

- I. Short and long sentences.
- II. Hard labor in our prisons.
- III. Sanitary results from reformatory treatment.
- IV. A system of aid to discharged convicts.
- V. Judicial sentences.
- VI. English vagrant law.
- VII. Juvenile offenders.

I. regarding short and long sentences, the Committee of the Social Science Congress, Punishment and Reformation Department, reported in 1863:—

"That the failure in the present system of convict discipline in England, is chiefly due to the *short* sentences frequently passed on *habitual* criminals; the want of an efficient probationary stage for convicts under sentence, and of police supervision over discharged prisoners."

Sir Richard Mayne, Commissioner of the Metropolitan Force since its foundation in 1829, speaks strongly in his evidence before the Commission of the evil arising "from thus creating as it were by *short imprisonments*, a class of most daring convicts."

Mr. Hill, Recorder of Birmingham, so far back as 1859, in a charge to the Grand Jury, thus spoke on this point:—

"Gentlemen, in a paper which was read at Bradford I find that the Magistrates of Liverpool, seconded by the Recorder of that Borough, had changed their course of action, and had taken a line which if they have had imitators in other parts of the country, may do something towards a solution of our difficulty. At Liverpool the *evils of short imprisonments*, which are sufficiently obvious, have at length attracted the attention of the authorities; and although they appear not to be very sanguine of producing reformation by means of long imprisonments, they have seen fit to adopt them, reasoning thus: it is, a benefit to society and to the offenders themselves to keep them within four walls, where whatever may be their dispositions they are incapacitated from the commission of crimes. This, gentlemen, is a sound view of the question. The professional life of a criminal, if I may use or abuse such an expression, is comparatively brief; hardship or debauchery will each of them shorten existence, and he is exposed to a combination of these causes. If then, by lengthening his imprisonment on each of his detected offences we could insure that every member of the criminal class should expend one-third of his life in prison, such a result would be tantamount to a reduction of the criminal class to two-thirds of its present number. Thus even Magistrates who are incredulous of the possibility of reformation, may, by abandoning that *pernicious* and *absurd* course of short confinements, which operates as an *education* to crime, and which could only have been resorted to had it been chosen after due reflection by such as desired to *augment* instead of to diminish offences; even these Magistrates may and I trust are beginning to act in unison with the friends of reformatory treatment, which demands as its *sine qua non* the extinction of that monstrous *lenity*, the off-spring of maudlin sentiment, which has too often turned the administration of the law into a ridiculous mockery of justice. But I will add that to me it stands as a most solemn duty, whatever may be our fears as to the success of our endeavours for reformation (personally I have none), to pursue the enterprise with our utmost energy and with unflinching perseverance".

The author of "Old Bailey Experiences," published so far back as 1833, observed:—

"Imprisonment, as I before said, thieves regard not, if it be *only for a short period*. So ductile and flexible is nature to circumstances, that these men think themselves fortunate, if out of twelve months they can have four months' run, as they term it, and I have no hesitation in affirming they would continue to go the same

round of imprisonment and crime for an unlimited period, if the duration of life and their sentences afforded them opportunity.

"Whilst the present system is pursued of allowing so many old offenders to escape with trifling punishments the evils will be increased.

"There is a distinct body of thieves, whose life and business it is to follow up a determined warfare against the constituted authorities, by living in *idleness* and on plunder. The problem of their increase was solved when I saw so many of their known party let off every season with *some slight* punishment, by which means they were soon again at their trade; taking care however to send into Newgate thirty or forty young hands each before they would themselves be caught again.

"It is the practice of all the old and knowing thieves, who have the reputation of being clever at business, to draw in young ones and make them do all that part of the work incurring risk.

"Every regular thief let out upon the town, draws into crime in the course of one year a dozen more, which continues the species; and this will ever be the case until the system at the Old Bailey be altered, where there really appears to be much more anxiety to take out of society *casual* offenders than the born and bred thief, whose whole life has been devoted to plunder. I have said they reckon all their chances—

- I. Of their not being detected in the offence.
- II. Of their being acquitted.
- III. Of coming off with what they call a small fine (short imprisonment).

"The only punishment they dread is transportation; they hold all others in contempt, and I believe even that of death would lose its terrors, did it not lead to the greatest of all their dreads, viz: transportation for life. Death indeed has no terrors for any one, until met with at close quarters. Tell the thief of death, and he will answer 'never mind I can but die once.' Name transportation and they turn pale.

"This cannot be too strongly impressed on the presiding judges at the Old Bailey. Full three-fourths of the prisoners every session are determined offenders, all of whom are regardless of imprisonment for a *short period*. Their spirits enable them to surmount such trifles, when the prospect of again returning to liberty and enjoyment is not very remote. 'Go along time' they cry, 'only three months and a *teazing*.' 'Never mind that; over in ten minutes' (meaning flogging). 'I would take one for each month, if the old fellow (the judge) would let me off the imprisonment.'

"It is the *known thief* who should be selected and transported, being the only punishment he dreads."

Sir John Bowring, F. R. S., J. P., and Deputy Lieutenant for Devon, writes:—

"No point is more strongly pressed, by experience both at home and abroad, than the necessity of great severity in cases of short sentences. Sir Walter Crofton recommends that when prison discipline is applied to persons condemned to imprisonment for six months or less, the regime should be sharp and deterrent. Captain Donatius O'Brien, the Prison Inspector, is in favor of the same divi-

sion; and thinks that, in the case of the shorter detentions labor should be a secondary consideration and discipline *very severe*. It would indeed seem deserving of serious consideration whether the system of short imprisonments ought not to be superseded by a legislation which should in every case allow time for the discipline of instruction, as well as that of punishment to be applied to all offenders.—'On no subject' says Mr. F. Hill, 'are the Governors of Prisons more generally agreed than in the worthlessness, of repeated short imprisonments; while the indirect expense to society in apprehensions and prosecutions, and yet more in the amount of property of which society is plundered in the intervals between the imprisonments, is great indeed.' A short confinement may be insufficient for bringing about reformation for establishing habits of industry, or for giving adequate instruction in any useful trade. The recollection of a prison to those who are condemned to a *short* experience of its penalties should be painful and ever intolerable. In the case of the minor and unprofessional criminal, productive labor might be made subordinate to punishment; while in cases of protracted imprisonment remunerative toil should become the instrument of reform and the recompense of evidenced improvement. The Swiss report recommends absolute isolation by day and night when imprisonment is of less than a year's duration, after which labor in company should be permitted by day."

II. Hard labor.

Lord Carnarvaon, in a pamphlet, gives as follows:—

"By the special committee of visiting justices. But in any such changes they wish not only to give effect to the penal part of the system, but to see more fully developed those influences which may tend to the reformation of the prisoner. With this view they recognize both the discipline of 'hard labor' and the discipline which may be enforced under industrial work. Both may be made integral parts of a prison system, but it is important to keep them separate. Hard labor properly so called belongs to *short sentences*, to the *earlier stages* of long imprisonment, and to the correction of prison offences. It ought, in the opinion of the committee, never entirely to disappear from the system of *penal* discipline, but it may with advantage be allowed as the sentence advances, to give place gradually to industrial work. They desire that from comparatively an early time the prisoner should understand that the system under which he is placed is a strictly progressive one; that in the successive stages of imprisonment opportunities will be given him of proving his good intentions by the performance of actual work, and that it depends upon himself to ameliorate his condition morally and materially."

Sir Walter Crofton on this observes:—

"I think if we adopt this principle as our guiding star, we shall not go far wrong in our treatment of criminals. The circular transmitted recently by Sir George Grey to the judges, shows us that this principle is henceforth to prevail in our convict treatment; and I cannot see why we cannot apply it to minor offenders in a manner which may prove generally satisfactory to the public.

"It was stated in the House of Commons that although the Secretary of State in his bill took strong powers to insure the existence of proper appliances in jails to enforce "*hard labor*," he did not define what would be considered hard labor. This is I believe the real difficulty with which we have to contend. The medical committee, which inquired into the dietary question, prescribed an extra diet for those employed at hard labor, and defined it as labor which visibly quickens the breath and opens the pores. I have heard objections made to this definition, but on the whole I am inclined to consider it an intelligible one. The employments which would produce this effect would be the tread-wheel, the crank, stone-breaking, oakum-beating, and some few others of the same character. I am quite aware that there are many prisoners in every jail physically unfitted to be so employed, and that although very generally the greatest rogues in the establishment they escape with very slight punishment. These prisoners will in general be found employed in the fatigues of the prison, in the garden, or at some quantity of oakum picking which is not measured, or perhaps at the pleasant occupation of learning a trade from the commencement of their sentences. Sometimes we find them placed at hard labor for short periods of the day and upon extra diet in consequence.

"I consider it a very serious evil to allow these prisoners, who form a large portion of our prison inmates, to thus escape punishment; and believe, that if a regulated amount of labor were exacted from them, it would be very beneficial to the community.

"There surely need be no difficulty in forming effective and non-effective classes in every prison. The *effective class* to be employed at what may be defined by the Secretary of State to be '*hard labor*' (which might probably be the employments I have indicated), to be gradually relaxed *through their own exertions*, into industrial and other more pleasant employments.

"The *non-effective class* to be employed at rope-picking; the quantity to be weighed to each prisoner, and to be of such an amount as to entail very considerable exertion to accomplish the task. This very penal employment, (for it can be made so) to be, as with the "*hard labor*" class, gradually relaxed *through the individual's own exertions*, into industrial employments of a more pleasant description.

"I would reserve the industrial employments, the fatigues of the prison, garden work, &c., for those prisoners who through their own exertions have attained a high class in the prison, and who either as '*effectives*' or '*non-effectives*' have had to bear the burden and heat of the day. I believe that the absence of interesting employment in the earlier portion of the sentence materially quickens the desire to be so employed, and can therefore be used as a strong motive power in our dealing with prisoners.

"I can state distinctly that I have seen such a classification as I have described, carried out at Winchester jail under Lord Carnarvon's plan, and I am quite satisfied that it is a great success, and is very creditable to the establishment. Punishment is made certain and exemplary to every prisoner, and is only relaxed through the *exertions of each individual*, which are recorded by marks."

"I am aware that some of those who hear me will object on principle to the use of the tread-wheel and crank; and I am aware that there are many prisons which do not contain these appliances. I confess myself as favorable to their use provided they are applied

productively; and I feel quite sure that if worked upon a system such as I have described, we need not fear any ill-effects upon the minds of the prisoners."

III. Sanitary results from reformatory treatment.

Miss Carpenter observes:—

"All who are familiar with the effect of the mental state on the physical condition of prisoners under separate confinement, the extreme care required to exclude from this severe trial of the constitution persons of infirm health, and to watch the symptoms which may arise lest the health of the prisoners should be permanently injured by the ordeal, or still worse lest insanity or even suicide should be the termination of this punishment, will perceive in the facts stated by the officers a striking proof of the wisdom of the system adopted by the Directors, and the truth of the principles on which it is founded.

"It gives me pleasure to report says, the medical officer of Mountjoy separate prison, that the state of the prison during the past year has been comparatively healthy; this is mainly to be attributed to the continuance of the system adopted in the previous year. It will be in your recollection that under the former arrangements of this prison, and previous to the alterations adopted by you, it was found necessary to subject the prisoners to a rigid examination, to test their mental and physical fitness for the severe and protracted trials they were in course of being exposed to, which led to very large rejections. But a worse consequence than this ensued; for although every precaution was taken in the original selection, many became enfeebled, and their health gave way eventually under the effects of the prison discipline. I am happy to report that those *evils have been completely removed*; every adult prisoner brought here during the past year, sentenced to transportation or penal servitude, has been received without a single exception, and subjected to the reformatory and separate treatment; and what is still more satisfactory, this important extension of the operations of the system has been unattended by any deterioration of health. From the statistical results stated in the annexed table the sanitary condition of the prison is shown rather to have improved."

The Medical Officer of the Smithfield Reformatory Prison thus reports:—

"Any one conversant with the medical statistics of convict prisons in Ireland will see from the preceding hospital returns alone, that the sanitary state of the prison during these eleven months was very satisfactory and exceptional. This becomes more manifest when we consider that all the prisoners in confinement here, 251, had previously undergone long periods of confinement, varying from three and a quarter to six years, and hence belonged to the class of convicts enfeebled by long confinement, among whom the serious illness and mortality of former years chiefly occurred. It is true they were a select class of such prisoners, but very few of them were strong, many were delicate, and all bore the traces of long confinement; and moreover they were constantly employed at such trades as shoe-making, tailoring, mat-making, &c., and worked more steadily and assiduously than the convicts here at any time.

"But the sanitary state of the prison was in reality more favorable than could be inferred from any mere numerical results, and was most remarkably manifested in the character of the sickness that prevailed. I would not attach undue importance to the total absence of mortality, which was probably an accidental circumstance; but what was really remarkable and significant, all the diseases of the period occurred so much modified and mitigated in character, and form, as clearly indicated that the health of the prisoners was sustained by more peculiar sanitary influence. Thus the cases of fever (six only) were of a mild and simple type, and they were the only cases of acute disease that occurred. The bronchitic and catarrhal cases, forming nearly half of all the cases treated, were merely common colds of more or less severity, and requiring only a few days residence in hospital for their cure. It was however in the cases of consumption and scrofula that this modification of morbid action was most strikingly manifested. These kindred maladies have at all times been the peculiar scourge of the convict prisons in this country, and probably will long continue to occupy a prominent place in their hospital records, even under the most enlightened and humane management. Even these intractable complaints, which when occurring in prisoners whose health has been gradually deteriorated by confinement, almost invariably run a continuous and rapid course, were during this period so remarkably modified in form and character that except in two or three cases of long existing disease they made but little progress; were more amenable to treatment, and in several instances were completely arrested in their course. Ophthalmia, in all its forms, is also generally an unmanageable affection in prisons; the cases in hospital chiefly of a strumous character, were, like the other forms of scrofula, unusually mild. The other chronic ailments, with the exception of one case of epilepsy, were slight and unimportant.

"To what cause can we attribute this modification of disease and immunity from serious sickness in a class of convicts whose constitutions had been more or less impaired by long confinement? Many causes might be suggested to account for this result. Thus it may be said, the city generally was unusually healthy during the past year; no epidemic disease prevailed; the prison was not overcrowded as in former years. These and similar circumstances may have had some influence, but they are inadequate to account for the facts observed in hospital, or for the improvement which was remarkable in the health of the prisoners who worked so steadily and laboriously.

"This *improved sanitary state* of the prison dates from the introduction of the reformatory system; and in my opinion, is attributable to the agency of several concurring salutary influences which this system bring to bear upon the criminal, and which produce as remarkable an improvement in the mental and moral condition, the temper, feelings, character and conduct of the prisoner, as in his general health.

"In whatever circumstance the prisoners here are observed, this improved state of feeling is apparent. In the workshops it is manifested in the cheerfulness, alacrity and assiduity, with which they apply themselves to their laborious occupations, and furnishes a striking contrast to the listlessness, sullenness, and gloom, so commonly exhibited by the ordinary convict in similar circumstances. In the school, the earnestness and vivacity with which they engage in their studies after the fatigue of the day, and the anxiety they evince to acquire information and excel one another, afford still more satisfactory evidence of mental and moral improvement; though at the same time it must be acknowledged

that much of this was attributable to the agreeable and skilful manner in which instruction is imparted to them in the prison, by lecturing, diagrams, maps &c, and to judicious selection of subjects suited to their capacity, and supplying the kind of information which is attractive, and interesting to persons in their condition. In the hospital also, an improved state of feeling has been equally manifest. It is a common practice among the convicts to endeavour to get into hospital, or to remain there after they are perfectly recovered, in order to avoid the prison duties; *very few cases of this kind have occurred under the new system.*

"Another and by no means unfrequent occurrence observed in the convict prisons, and more especially among the prisoners whose health has suffered from long confinement, and who have been anticipating their approaching release from prison, is that when the prisoner is attacked by any serious disease, he is at once prostrated in mind and body; and comes into the hospital with a gloomy foreboding that he will never leave the prison alive; and lies down, as it were, to die, hopeless and desponding, thus rendering all the resources of art unavailing. A very different spirit prevailed among the prisoners here since the change of management took place. In fact they appeared to me in most cases rather to under-rate the seriousness of their sickness, and to rely too much on their improved health, and were only anxious and eager to return to those duties which have ceased to be distasteful to them. Those who have had opportunities of observing the powerful influence for good or evil, that mental feelings and motions, hope and joy, grief and despondency, exercise upon the human body in sickness and in health, will have no difficulty in comprehending that this buoyant state of mind and hopeful spirit of the prisoner, must have largely contributed to produce the improved sanitary condition of the prison during the past year.

"It is almost unnecessary for me to observe that with prisoners in this state of mind, remunerative labor, and the acquisition of interesting and useful knowledge in the school, are in themselves sanitary influences of no slight importance.

"Indeed this system of treatment may be regarded as not only reformatory, but sanitary to the prisoner, and is brought to bear on him at the period of his imprisonment when he most needs it; so that he is, as it were, prepared, as the period of his liberation from prison approaches, to return to society in such a state of health as will enable him to make good use of the skill and information he has acquired in confinement.

"The observations I have offered are applicable to the majority of the convicts that were in prison during the past eleven months; there were however several who from obtuseness of mind, or natural depravity, appeared to be little affected by the salutary influences with which they were surrounded. There were also some few committed here in such a weak state of health, that they were unable to avail themselves of the advantages the reformatory system affords the prisoner."

Miss Carpenter remarks on the foregoing:—

"The opinion of the influence of the mind over the body here spoken of by the medical officer, as the result of one year's experience of the Irish system, was confirmed by lengthened experience. This is expressed in the following letter written after an interval of more than six years from the report just quoted.

'MADAM,

'I have great pleasure in being able to assure you that the remarkable improvement which took place in the sanitary state of the convicts in the intermediate prisons, on the establishment of the reformatory system, has been fully sustained ever since.

'The diseases that have occurred without an exception, have been of a simple character and mild form, such as might occur in any family, and requiring merely a few days' residence in hospital for their cure. I have observed that the prisoner begins to improve in health the moment he passes the threshold of the intermediate prison, even though he be weakly and shattered by previous confinement; and in most instances his improvement in health is so rapid as to excite the astonishment of those who have seen him at the time of his admission. I may observe that the facts stated here have been repeatedly put forth in my annual reports.'

Dr. Carr, the Medical Officer of the Philipstown Prison, where convicts are sent whose constitution cannot stand Spike Island, reports :—

"The mortality per-centage 1·07 in the years amount of prisoners; the numbers and ordinary nature of the cases (as compared with former years) treated in the hospital, which contained only 13 patients on 31st December; the diminished applications of trivial descriptions at the dispensary; the evident decrease of invalid admissions into this prison; my disbelief of such class being retained in other prisons; all point out, that the heaven of phthisis, scrofula, and other deadly afflictions that formerly carried such disastrous sway, have almost entirely disappeared; that the convict community at large has attained a healthy position, *superior to that of the general population* of Ireland (provable by the difference of mortality in these two classes) while the *remarkable diminution* of crime, together with the improved condition and circumstances of the people, who heretofore supplied the pabula of convict prison mortality, portend the *great improbability* of future recurrent consequences of revolting disease so painfully developed on former occasions."

IV. A system of aid to discharged convicts.

The late Sir Joshua Jebb, for many years Inspector General of Prisons in England, is reported to have stated in 1862 :—

"Whatever be the system of prison discipline, neither the public nor the individuals could reap any substantial benefit unless prisoners on their release had the means of obtaining employment, and of putting the good resolutions formed under the prison discipline into effect. It was in vain to expect that they should be able to avoid crime if they could not obtain the means of subsistence. The re-committals of 30 per cent of the prisoners he believed to be mainly attributable to the

neglect of discharged prisoners, and he thought Government would do well to second and stimulate the humane efforts, of private benevolence in their aid. A moment's reflection ought to show that there was entailed by each re-committal ten times the expense which in all probability might have prevented a return to crime. In other countries the importance of patronage or rendering assistance to discharged prisoners was fully recognized, and justly regarded as a *necessary complement* of any general system of penal administration."

Sir John Forbes stated in his address in 1863 on this subject:—

"The failure of any scheme which allows the convict at once to issue from confinement into the hot-bed of former associations, without any counterbalancing impulse, can scarcely be surprising, even under the most favorable circumstances; considering that the passions, if not thoroughly bridled by a happy acquirement of self control, must be in a state of morbid activity from the long period of enforced subjection, the bodily functions restored by regular regime to healthful activity, and the mental faculties sharpened to a keen desire of relief from the deadening influence of an oppressive routine. The man in such a state launched without rudder or compass on the free course of existence, and at once beset by the most alluring temptations, must infallibly give way, and cast behind him the feeble barrier of good resolutions which he may have been induced to make in a time of repose and seclusion.

"These views and reflections have not been allowed to issue in hopeless regret. Benevolent men have exerted themselves, and successfully, to mitigate these admitted evils in England."

James Marshall Esquire, writing in 1864, observes:—

"When a criminal has undergone the sentence of the law and leaves a prison to return again to common life, it is of great importance, both to himself and to society, that whatever good resolutions he may have formed, whether proceeding from conscience or from prudence, in favor of a life of honest industry, should not be thwarted by the adverse circumstances of his situation.

"The pressure of his immediate wants, and above all the want of character, often stand fatally in the way of his success. Need we then wonder that a man in a situation so forlorn and hopeless should at length succumb, and relapse into crime as the only means of getting a living.

"To avoid this deplorable result, various societies have been formed for the purpose of aiding *well disposed* ex-prisoners in their desire of obtaining honest work. But is it only the *well disposed* that can be thus helped? The man is now his own master; he is no longer the subject of compulsory discipline. The utmost that can be done for him is to *remove obstacles* to his getting work, but the battle must be fought by himself; and unless he has the will and the capacity to work, all efforts on his behalf must be fruitless. One mode of helping ex-prisoners has been the formation of institutions for the reception of such as are willing to subject themselves to a system of strict discipline, for such period as might be deemed necessary for fitting them to obtain work. As they come to such institutions voluntarily, and as they may depart at any time during the period of probation, their going through the discipline satisfactorily gives reasonable assurance that they are animated by such a sincere desire of honest work, and have such a capacity for steady

industry, as may justify managers in recommending them for employment. But institutions involving reformatory training, and the maintenance of prisoners for lengthened periods, are necessarily expensive; while it has been found that many prisoners coming from county or borough jails, who have not as yet gone beyond the first stage in crime, but have previously lived by honest industry, do not stand in need of such reformatory discipline, and may be effectually helped to obtain work at a trifling expenditure of money. It is found that a supply, according to the emergency of the case, of lodging and food for a few days, of necessary clothing or tools of trade, or a small outfit for sea, is all that is required to get many an ex-prisoner into honest employment and give him a fresh start in a course of well-doing.

"Various associations called 'Discharged Prisoners' Aid Societies' have been formed for the purpose of aiding prisoners on this plan.

"The aid afforded by the Birmingham Society was supplied wholly by voluntary contributions, but its operation was so beneficial that it was considered advisable that the funds to be applied for the benefit of ex-prisoners by that and other similar societies, should be supplied out of the county and borough rates: and accordingly, by the Act 25 and 26 Victoria, Cap 40, the visiting justices of county and borough prisons were empowered to grant sums, not exceeding £2 in each case, to be applied for the benefit of the prisoners, *through the instrumentality of discharged prisoners' aid societies*, who should be approved and certified as therein mentioned.

"The first step was to select an agent well acquainted with criminals of all gradations, and at the same time qualified to mediate with employers on behalf of the prisoners.

"Three things are necessary to be ascertained as far as possible in order to obtain a grant of assistance:—

I.—That the man is sincerely desirous of honest work.

II.—That he is capable of work.

III.—That he needs help.

"When the officers of the prison consider that a prisoner's statements give hope that these points can be established, the society's agent proceeds to investigate the case out-of-doors. He makes inquiries as to the former occupations, habits, and character of the prisoner; whether he has any friends willing to assist him; and what prospect there is of getting him put to work. The matter is then laid before the visiting justices at their weekly meeting preceding the prisoner's discharge. If the application is entertained a sum not exceeding two pounds five shillings is directed to be applied for the benefit of the prisoner. According to the prison rules, each prisoner is entitled on his discharge to receive two shillings and sixpence for every three months of his imprisonment during which he has not been reported for breach of prison discipline. This is commonly called 'star money,' from his wearing on the sleeve of his jacket a star for each two shillings and sixpence due to him. In order to test their sincerity prisoners are required as a condition of obtaining assistance, to give up their star money to the society's agent to be *applied for their benefit* along with the money granted by the visiting justices. It sometimes happens that this condition is refused and the prisoner prefers to depart with his star money only; when a grant is made, the prisoner leaves the prison under the care of the society's agent, who endeavours to find employment for him, or encourages him to apply for it himself; in the meantime, the agent assists him with food and

lodging on a very moderate scale; the regular allowance being six-pence a day for food, and four-pence a night for lodging.

"The expense of management in such a society need not in any case be great.

"The duties of Secretary have been voluntarily undertaken by Mr. Murray Browne, the Honorary Secretary, to whose exertions the society is deeply indebted; and the printing has been done in the prison, so that the salary of the agent and a few incidental expenses constitute the whole expenditure.

"The whole number discharged from the prison during the six months adverted to has been 3,700; whilst those it has been thought advisable to assist have been only 160. The society's field of operations has been amongst those who have not gone beyond the first steps in crime, and who have previously followed occupations to which they could return.

"No doubt there will be some failures, but it should be considered that even in a pecuniary point of view our success will cover many failures. When one man is saved from a life of crime and added to the ranks of honest industry, the gain is great: the community is saved, not only what he will plunder when at liberty, but the expense, sometimes often renewed, of trying him for his crimes, and of maintaining and guarding him during that large portion of his life which the habitual criminal spends in prison; but above all, a fellow creature is rescued from a life of guilt and crime, and instead of being a terror and disgrace, becomes an industrious and creditable member of the community."

Mr. Shepherd, the Governor of the Wakefield Jail for thirty years, established an industrial home for discharged prisoners, where, as Miss Carpenter observes:—

"The men lived as in a well ordered lodging house, and paid their expenses by their own work, so that the institution had the rare merit of being self-supporting."

Mr. Shepherd says regarding it:—

"I have also given considerable time and thought to the subject of the reformation of criminals. About seven years ago I established in the vicinity of the prison an 'industrial home,' whereat discharged prisoners might obtain employment, and earn a livelihood until they had an opportunity of meeting with other occupation. This institution, though entirely independent of the prison, has proved a most useful and beneficial auxiliary to that establishment. I received kind offers of pecuniary assistance from several of the magistrates when I first opened the 'industrial home,' but I am happy to say that I have not found it necessary to avail myself of their offers, but have managed to render it self-supporting. Its value as a reformatory institution is proved by the fact that 724 released prisoners have been inmates since the opening, and of that number at least 300 are now known to be honestly earning their living by various occupations, the majority of whom are settled in Wakefield or its neighbourhood."

V. On judicial sentences.

Miss Carpenter writes :—

"The great uncertainty of judicial sentences, and the very different punishments awarded for the same offences by different judges, has a most injurious effect on the public mind, and especially on that of the criminal class."

Mr. Richard Mayne's opinion is founded on a long experience as Commissioner of the Metropolitan Police, since the foundation of the Force in 1829, and is therefore very important. He says :—

"I believe it is not too strong a word to use to say that the administration of the law with regard to the widely varying degrees of punishment at the present day is a scandal. Some of the judges I think pass sentences of eighteen months for an offence that another judge would pass a sentence of five years or more of penal servitude.

"The law gives them almost unlimited discretion, whether they will pass a very long sentence of penal servitude or a very short sentence of imprisonment? Yes. You are of opinion that that latitude is universally large? Yes.

"Does it not make it perfectly uncertain and a species of lottery? Yes, the police consider it so; they often reported to me with regard to a case, 'so and so will be tried before such a judge and he will get a very light punishment.'"

Miss Carpenter gives several illustrations of Sir R. Mayne's opinion :—

"A man who has nearly murdered another, is restrained only for eighteen months. A servant girl charged with several robberies gets four months in the house of correction."

Mr. Avory, Clerk of Arraignment at the Central Criminal Court, in his evidence to the Royal Commission, mentions cases of poaching, in which the circumstances were as identical as they well "could be," yet in the one case the prisoner was sentenced to ten years' transportation, and in the other to one year's imprisonment.

Mr. Sidney Gurney, Clerk of Assize on the Western Circuit, says in his evidence before the same Commission :—

"There is great variety in the sentences passed by the different judges for the same offences, and committed under similar circumstances, without any reason for the difference that I can discover. I believe that rape is an instance in which some judges pass a very severe sentence, and others a moderate one. I have found that that discrepancy applies to

all classes of crime. It has existed to such an extent that while for the same offence one judge would inflict imprisonment, another judge would inflict penal servitude."

The author of "Old Bailey Experiences," on this point observes :—

"Turn over the pages of the Old Bailey Sessions papers for years past and you cannot but be struck with the anomalies which are there apparent, with respect to crimes and the sentences which have followed. The impression on perusal of these papers made on my mind, was as if all the business had been done by lottery; and my observation during twenty-two sessions on the occurring cases has tended to convince me, that a distribution of justice from that wheel of chance could not present a more incongruous and confused record of convictions and punishments. In no case (always excepting the capitals) can any person, however acute and experienced, form the slightest opinion of what the judgment of the court will be. Of this the London thieves are fully aware. I never could succeed in persuading one before his trial that he was deprived of all chance of escape. They will answer—'Look what a court it is! how many worse than me *do* scramble through, and who knows but I may be lucky.' What men know they *must endure, they fear*; what they think they can *escape, they despise*. Their calculation of three-fourths escaping is near the truth. Hope, the spring of action, induces each to say to himself—'Why may I not be the lucky one'? *The chance thus given of acquittal is the main cause of crime.* Another evil arises out of this irregularity of judgments. All punishments are rendered severe and useful in proportion as the offender *feels he deserves it*, and is conscious of having only his "*quantum meritis*." Instances of this kind occur out of number to confirm the rogues in their preconceived notions of the uncertainty of punishment, and that the greatest criminals come off the best. I have seen some of them, after being sentenced by the court dance for hours, calling out continuously—'did I not tell you all, the biggest rogues get off the best,'"

"The scene in the several yards of Newgate on the sentence days after the judgments have been passed, defies any description on paper. Some will be seen jumping and skipping about for hours frenzied with joy at the very unexpectedly mild sentence passed on them; others are cursing and swearing, calling down imprecations on the Recorder, for having, as they say, so unfairly measured out justice; all agreeing there is no proportion in the punishment to the crimes. It may be said it is of little import what these men think, so that they are punished. But is it of no importance under what impression the others are discharged? If the discharged feel (as assuredly they do) that punishment is a matter of chance, they return to their habits as the hazard player goes again to the dice, in hopes of coming off a winner and reimbursing himself for former losses.

"There is another evil that comes out of these unequal sentences. The discontent it produces on the minds of those who fall under the more heavy judgments, which militates against their reformation. Instead of reflecting on their situation as brought on by themselves, they take refuge in complaint and invective, declaring they are sacrificed, in their own language murdered men.

"They carry this feeling with them to the hulks, where they amuse each other with all the tales of hardship within their knowledge; meditating revenge, by which they mean becoming more desperate in crime

and working reprisals on the public when they should be at large again. They become imbued with the notion that the judge has more to answer for than themselves. Opinions of this nature are very common among them, and prevent the discipline to which they are subjected having its proper effect. Minds in their state seize on any supposed injury to brood over and stifle their own reproaches."

The author proceeds to point out the objectionable connection between the city judges at this court and the city residents. His remarks are not without instruction, and apply with equal force to other countries:—

"Throughout the year meetings out of number take place on city business, besides dinners and convivial parties, at which the aldermen and other gentlemen of city influence are constantly in the habit of meeting these judges, on the familiar terms of intimates; consequently through these channels any representation may be made to a judge before trial, either for or against the prisoner. Tales may be poured into his ears day after day, in various ways, so that the judge himself shall not see the motive, until a prejudice be effected which renders him unfit for his office.

"It may be asked what motive any of these gentlemen can have in prejudicing the case of a prisoner? I answer none personally; but when it is considered they have all been in trade, and have numerous connexions, either commercial or otherwise, in all the grades immediately below their own, and looking at all the ramifications by which society is linked together, especially in this metropolis, it is easy to conceive that through such channels claims will be made on them not always to be resisted, and from them to the judge. That they do interfere I know, as do all others any way connected with the court or prison.

"This can only be reformed by the appointment of *judges out of city influence*.

"Does it not appear extraordinary that the management of a business of such national importance should be in the hands of judges who are not one remove from the middle classes of the community, and who it is well known mix every day with their fellow citizens, so as to hear every current tale connected with the very cases in which they are a few hours afterwards called on to adjudicate; often coming into contact with the prosecutors, who for reasons before stated have occasionally an interest in prejudicing the judge.

"The judges say they never allow any thing extra judicial to influence them. How do they know that? No one knows himself, and there is no security but by removing the possibility of his coming within the sphere of such pollution to his office. Let him be placed on a pinnacle of more importance, out of the reach of these gossips. If it were possible a judge ought to descend from the upper world to the seat of justice, untainted and unprejudiced by any knowledge of the matter at issue."

The following remarks by the same author on *hurried trials* may well find a place under this heading:—

"The rapid and indecent manner in which the trials are usually conducted at the Old Bailey Sessions-house is a constant theme of censure by those who have ever entered that court. The rapidity with

which the trials are despatched throws the prisoners into the utmost confusion. Fifty or sixty of them are kept in readiness in the dock under the court, to be brought up as they may be called. These men seeing their fellow prisoners return tried and found guilty in a minute or two after having been taken up, become so alarmed and nervous, in consequence of losing all prospect of having a patient trial, that in their efforts at the moment to re-arrange their ideas, plan of defence, and put the strongest features of their cases before the court as speedily as possible, they lose all command over themselves, and are then, to use their own language, taken up to be knocked down like bullocks unheard. Full two-thirds of the prisoners, on their return from their trials, cannot tell of anything which has passed in court, not even, very frequently, whether they have been tried; and it is not uncommon for a man to come back after receiving his sentence on the day appointed for that purpose, saying 'It can't be me they mean, I have not been tried yet,' conceiving from the celerity with which the business was performed that he had only been up to read or see a fresh jury empannelled, for which purpose he had been probably several times called up in the course of one or two days, waiting in the dock; with countrymen whose habits are slow, there is sometimes no possibility of persuading them to the contrary. There are it is true some of them wretchedly stupid; this however gives them a greater claim to our consideration, and whatever may be their crimes or condition, it is proper they should be made sensible of their having justice done them on their trials. It was a boast at the Old Bailey that a recent city judge could despatch sixty or seventy trials a day; and a lament was made that his successor did not so successfully drive on the business. With the knowledge of these facts can we wonder that many serious mistakes occur."

VI. The English Vagrant Law, and treatment of vagrants.

I notice this here because I wish particularly to point out that under it, (under the heading "Rogues and Vagabonds") any person not having any visible means of subsistence, and not giving a good account of himself or herself, may be committed to the house of correction for three calendar months to *hard labor*.

By the Indian law simple imprisonment *not* with hard labor is the punishment for such persons if they cannot give security.

This fundamental difference demands our serious attention. If rogues and vagabonds can be checked in their career, turned into honest courses, deterred from pursuing their own criminal modes of living by simple imprisonment,—then, it is evident that the punishment should not be increased

by hard labour; for as Mr. Mills says in a quotation I have previously given: "If offences could be prevented without punishment, punishment ought never to exist. It follows as a necessary consequence that as little of it as possible ought to exist;" or, applying the rule to this case, if vagrants can be reformed by simple imprisonment, the additional punishment of labor should not be added. Now, with the greatest respect for the opinions of those who differ from me on this point, I venture to assert that simple imprisonment without labor is not sufficient to prevent the offender continuing in his course of vagrancy. I go further, I assert it positively encourages him in it. What is one of the great causes, one of the prominent causes which lies at the root, the beginning of all criminal practices? It is idleness. I need not seek authority to support me in this assertion; the recorded evidence of all Europe proclaims it loudly, and what is it that the vagrant specially loves? *Idleness*. Is simple imprisonment without labor a state of idleness or not? The most casual observer of our jail system must answer in the affirmative. In this climate, where epidemics break out suddenly and rage with awful severity and rapidity, it is absolutely necessary to feed, clothe and house our prisoners, certainly quite as well, and my experience says much better, than the similar class of men can feed themselves by honest labor outside the prison. I do not demur to this; let our system be, on the score of health, considerate even to what may appear an excess; but what I feel bound to protest against, is the encouragement to idleness which our system of simple imprisonment almost forces on the vagrant.

It may be said to this, the vagrant may work if he chooses; he has only to ask for work and it will be given to him. Also that some do ask for it, because it then places them on the scale of diet allowed to prisoners on hard labor. Now, I doubt the confirmed vagrant ever asking for labor, unless you force him to do so by starvation; a proceeding which at any rate the sentence of simple imprisonment without labor does not imply. If officers in charge of jails starve all such characters into asking for work, such pro-

ceedings are illegal, and I maintain wrong in principle; there should be in jails no trifling with the sentence of the law, either as regards lessening or increasing the severity of the sentence. The general result then is this, that by our present law we actually enable the idle vagrant to indulge in his dearly loved idleness, well fed, well clothed and well housed—for all of which we exact no return. Now I submit that such a proceeding is not only most uneconomical, but it is morally wrong, because it tends to confirm the vagrant in his idle habits. The State cannot shake off the moral responsibility attaching to its enactments; and where the experience of all other countries shows that an exactly opposite course is pursued and always has been pursued, our present practice in India calls for most serious consideration.

There can be no doubt that however little in India we may be able to attain towards the reformation of criminals, still all our enactments regarding them should have this noble principle clearly recognized. Now, to simply shut a criminal up in one of our Indian jails, and not to exact any labor from him, is to encourage him in a life of idleness, which does not tend to reform him; does not tend to implant or encourage in him habits of industry.

It is worth while to notice briefly the stages England has passed through in the treatment of vagrants, of men who have no ostensible livelihood and are assumed therefore to live by criminal practices. The first enactment was the seventh of Richard II, passed in 1383, followed by several others of barbarous severity in the time of Henry VIII.

The first of Edward VI in 1548 repealed all former statutes on this subject, and substituted another of equal severity.

Other statutes followed which revived some of the former, and the 14th of Elizabeth differed little in severity, but is noticeable as giving the first mention of any place of confinement for this class apart from the common jail. These places were ordered because the ordinary jails could

not receive all the vagrants committed, and by 14th of Elizabeth in 1576 they are called *Houses of Correction*.

In the year 1597 vagrants became, by 39 Elizabeth, the subjects of separate legislation, and at the same time came out the celebrated Act for the relief of the poor.

The 7th of James I, passed in 1609, enforced the speedy erection of these houses of correction, and provided that the prisoners should be in no way chargeable to the country, but to have such allowance as they shall *deserve by their labor*.

In every enactment regarding vagrants, labor has always been prescribed ; and I cannot discover that the wisdom of such a proceeding has ever been questioned. As civilization increased so the barbarous severities fell into disuse ; but labor was always maintained as part of the sentence.

I may observe that labor should be always *productive*, and if possible the prisoner should receive a certain portion of the value of his labor. In very short sentences this may be impossible, but in long sentences it is quite possible, and is fully recognized in Europe as a valuable principle. So with vagrants : if a man feels the result of his labor absolutely beneficial to himself, and that he can earn enough to support himself, he at any rate is shown during his imprisonment that he can earn a living honestly by his labor if he chooses. A writer has aptly observed, that we should return to those natural laws which the Almighty has laid down for the regulation of human life, and make a man's food and enjoyment whilst *in prison* depend on the amount of work he does, as is the case with the rest of the world *out of prison*.

Mr. Frederic Hill, late Inspector of Prisons in Scotland, observes regarding labor :—

"The basis of all good systems of prison discipline must in my opinion be *work* ; steady, active, honorable work. It is by work alone that the great mass of mankind can honestly live ; and unless prisoners acquire habits of *industry*, and a liking for some kind of labor, little hope can be entertained of their conduct after liberation."

As I have before stated, the celebrated Act of Elizabeth providing relief for the poor expressly and wisely provides

for *getting to work* persons "as use no ordinary and daily trade of life to get their living by." I trust this mode of treatment, namely, simple imprisonment without labor, for the class specified in our Indian Code, may be amended; the class comprises :—

Persons without ostensible means of subsistence.

Persons who cannot give a good account of themselves.

Persons by repute robbers, house-breakers, thieves, or receivers of stolen goods, knowing the same to be stolen; or of notoriously bad livelihood.

Persons who are not only by repute as above but by *habit* robbers &c.

For all, different terms of imprisonment are provided, but in no case does labor, that basis of all true prison discipline, form a part.

To show that I am not seeking for the introduction of any new principle into India but merely for the revival of what was long and most advantageously in force in the Bengal Presidency, I give the following extract from a report by the late Mr. H. C. Reade, District Magistrate, Commissioner of Merut, dated 5th August 1856 :

"Section 10 Regulation XXII of 1803; section 10 Regulation XVII, 1795; and section 10 Regulation XXX of 1803;—successively enacted for Bengal, Benares and the Upper Provinces declare that all vagrants or suspected persons without any ostensible means of subsistence, or who cannot give a satisfactory account of themselves, shall be apprehended and employed on public works, until they find security for good behaviour or satisfy the magistrate that they will obtain an honest livelihood. The general application of this law throughout the provinces will set before the predatory tribes the option of undergoing an indefinite course of molestation, or of seeking to merit immunity by the adoption of new habits; and I am sanguine that if the law is steadily enforced, and the consequence against its provisions is found, throughout the breadth and length of the land, to lie in submitting to a settled life, that the number of instances in which the law has to be applied will rapidly diminish. The operation would be expedited by persuading landed proprietors that they incur no risk in giving honest employment to vagrants seeking a livelihood; and further progress might be made in raising the tribes in their own estimation by *facilitating the education of their children*.

VII. On the treatment of juvenile offenders.

'In England, so far back as 1788, the efforts of philanthropic individuals were directed to the reformation of vagrant and criminal children; and in that year an institution for this object was started by a "philanthropic society." After this there followed a period of inaction, until 1818, when a small school was started for the reformation of criminal boys. Alexander Falconer, Governor of the Protestant Reformatory, Malone, Belfast, Ireland, thus describes the period, when all reformatory principles seem to have been lost sight of, both by the Government, and by the people:—

"Philanthropy in the life and labors of the immortal Howard had just dawned upon the world, and the story of prison life as it then existed was still ringing in the ears of Europe. It was clear that some mighty wrongs were festering in the midst of society all unheeded, yet only so long as the echo of Howard's foot-fall was heard and no longer, was the condition of the criminal given heed to. This indifference to the true causes of a nation's decay, and to the perennial sources of a nation's glory, might have lasted longer; for these evils, however, the terrific scenes of the French Revolution proved a sharp remedy, and the lesson was needed. Our periwigged grand-fathers had no notion of their duty in these matters of social well-being. It had never entered their hearts to conceive what was their duty to the poor. And so one generation went and another came, but with little change for the better. Then came the great war to occupy the attention and perplex the minds of the people. Yet this period was not wholly given to military things. There were some who began to exhibit their Christian love for our town and rural populations in new forms, whose minds were busy about home questions, and whose eyes were set on home scenes, and what saw they? In most districts they found an amount of ignorance and degradation not to be imagined; and in all our large towns they saw a multitude of men and women and children grown and growing up, in open defiant vice and wrong doing, for whom none cared; who were a separate class; who for many generations had been so; whose houses were dens of unspeakable misery and wickedness, training schools of crime for their own and others' children; who lived solely to cheat and rob; who looked forward to the jail without fear, and to the gallows with hardly a shudder. Their lives began and ended with crime, as one was hung or banished another filled up his place. The son succeeded the father and multiplied evil.

"The jail itself was but a resting place for the thief to devise new robberies, and so had it been for many long years; ignorance and crime, gross wickedness and vice, had rooted themselves firm and deep in English soil, and had grown up intertwined in one gigantic Upas tree, whose hateful breath was killing thousands of souls every year."

In 1833 the author of "Old Bailey Experiences" thus writes:—

"If a boy has once fallen into the hands of a practised thief, nothing but taking him out of society for a period can afford any hope of his amendment; and this will fail unless measures be used to rouse the better feelings of his nature. What is called *discipline* and *severity* will never accomplish the object; no even rewards for good conduct, under a system of heavy punishments for the reverse can avail anything; they will still remain the same insensible beings hard and frozen up. The more you coerce the further is the retrocession from the point aimed at.

"I have ever observed the boys have become bold and daring, and hardened, in proportion as they have undergone the most corporeal punishment, and probably it is so with men. I knew one boy who endured seven whippings, five private and two public; he was only fourteen years of age.

"There is no mistake in it, the punishment (whipping) is worse than useless. I am certain if they could have shortened their duration for a week, they would offer to take two whippings instead of one every morning, and come back to their breakfasts in good spirits. I really never knew a boy go unwillingly to be flogged (and I have not seen a few as it was always in Newgate the prelude to his enlargement). I have said, the prisoners generally disregard minor punishments; with the younger ones it sometimes appears to act as a positive inducement to continue in their career. The boy who for his age has undergone the most punishment is the greatest man; such is the notion, of consequence, which an endurance of many whippings gives them, that it is the main topic of conversation with each other. On this subject they will enlarge in the most extravagant manner, making out their offences and adventures as wonderful as their ingenuity can invent; often concluding with 'well when I have another teasing (whipping) I shall be as good a man as Harry.' This feeling is got from the men in whose hands they have been made instruments of crime, and who relate to them tales of heroism, telling them they will be great only as they endure punishment after the Spartan fashion. They at the same time afford these deluded creatures every facility of gratifying their passions, having first promoted an early and premature sense of them. Human nature is bad enough when the passions are attended by reason, and both are developed in due course of growth toward manhood. Ought we then to be surprised at the lamentable results when the passions are set at liberty without the guide of reason, as in the case of these poor boys? I wish those who have the management of boys of the description here spoken of, would reflect that, in the majority of cases, there has either been no parent, or those of such habits and temper as would have rendered orphanship a blessing; and that in all probability most of them under their care never had a kind or affectionate sentiment imparted to or drawn out of them by any human being they could look to as a friend; and that they have in a manner been driven to take up arms against society, meeting from their earliest recollections with nothing but an enemy in man. Thoughts of this nature ever induced me to adopt a kind mode of treatment, even when others have said that no sense of feeling was left. I am not without a hope but that I have done some good in this way.

"On the subject of boys engaged in crime many volumes might be written, illustrative of their habits and character, showing by what means they are brought into it, their peculiar situation in life, and cruel treatment under petty offences, many of whom are driven by circumstances into the commission of crime. It has always distressed me to hear of any sentence exceeding seven years being passed on a youth under fourteen years of age, as he can scarcely be considered morally responsible for his own actions at this period of his existence; but as they are made the instruments in the hands of others to commit depredations, and thus rendered not only dangerous to society but to themselves, when considered as men, it is of the first importance they should be secured until their minority be expired, taking care in the interim to give such instruction as the nature of the case will admit of. But to subject them when men to the severest of all punishments, namely slavery for life, for an action committed when boys, I cannot but think both cruel and unjust in the extreme. There is not at this moment (1833) a question of any comparative magnitude before the public equal to that of how we shall treat and deal with juvenile vagrants and offenders. Those who now come under the law are treated in every respect as men, and held as responsible for their actions, although they have been cast upon the waters of life, not only without rudder or pilot, but without a bark to float them, so that they are struggling for life the moment they come into it; being like the small inhabitants of the ocean, the same instant which animates them, also informs them of the danger of being devoured by those of their own species who have had a pre-existence. The majority of those who have not yet fallen under the law, are rapidly imbibing the opinions and principles (as all do) of those about them in childhood, and are being prepared to swell the criminal calendar of the country. Habit, which by a kind appointment of nature was intended for our good, is by the neglect of those in power converted into a mischief. We see the effect of the turn of mind in families when one system of education is adopted for all the children; and so it would be in nations, were an universal and well digested plan enforced on those who are deprived of the protection and advice of a natural parent.

"Every motive which can urge men to reflect and act are involved in this question, whether considered generally as regards the nation or particularly as regards individuals. It comprehends national character, national and political stability, national prowess and wealth, and national happiness. It includes not only the moral conduct of the nation but of each individual, as the mere knowledge of the corrupt and untaught state of human nature affords excuses for others to commit indiscretions, who are by birth and education taught better. Youthful delinquency concerns every one as regards his own private property and that of his posterity.

"All the cardinal virtues call loudly on man to assist by his advice, pocket and exertions, to further the views of those who are anxious to deal with this subject on broad and useful principles. Religion, humanity, charity and justice demand some legislative measure. Pride, policy, selfishness, follow in the train of arguments. Those very principles which have been actively engaged in opposing it, are now counteracted by the force of circumstances and enlisted as advocates in a cause which heaven and earth contemplate with feverish anxiety; the condition of the rising generation and that of the world in after ages. It is the triumph of despotism to suffer children to be ill educated, and then to punish them for offences which have had their rise in bad habits. A man of pure

morals will always be the best subject of the State, and pure morals can only be obtained through a virtuous education."

The legislative measures taken in England, with reference to the treatment of juvenile criminals may be well noted here, being full of instruction for those countries where legislation on this point has as yet all before it. It is worthy of observation that each enactment was achieved by the persistent efforts of earnest men, who saw and felt the great evils resulting from the want of certain legislative measures; and who, never despairing amidst constant and great discouragement, eventually saw their efforts crowned with success.

The first notice which the Government appears to have taken of these reformatories was that in which Her Majesty exercised Her prerogative of pardon on behalf of juvenile offenders, and extended a conditional pardon to those who accepted "the condition of placing himself or herself under the care of some charitable institution for the reception and reformation of young offenders, named in such pardon, and conforming to and abiding by the orders and rules thereof." Subsequently this conditional pardon was, in Act 1st and 2nd Vict. Cap 82. Sec, 11, declared "to have been found beneficial."

"And whereas it is expedient that some provision should be made for carrying the same more fully into effect" it was then enacted that "if a juvenile offender absconds from the said reformatory, or wilfully neglects or refuses to abide by and conform to the rules thereof, he may on the oath of one credible witness be committed to any jail or house of correction with or without hard labor for any period not exceeding three months for the first offence, and not exceeding six months for any subsequent offence. In every case such imprisonment to be in addition to the original sentence; and if the reformatory managers refuse to receive back the offender, or if Her Majesty shall not pardon the breach of the condition, then the offender may be remitted to the original sentence, to undergo the residue thereof as if no pardon had been granted."

An agreement between the law and the infant in the eyes of the law, was certainly a remarkable transaction, and one which subsequent legislation clearly showed had not been found satisfactorily to effect the object in view.

In 1847, a Select Committee of the House of Lords reported:—

"That the contamination of a jail, as jails are usually managed, may often prove fatal and must always be hurtful to boys committed for a first offence; and thus for very trifling acts they may become trained to the worst of crime, is clear enough."

In 1848-49 Act 10 and 11 Vict. was passed, whereby juvenile offenders whose age did not in the opinion of the justices before whom they were brought exceed the age of 14, might be summarily convicted of certain offences before two or more justices, and "committed to the common jail or house of correction within the jurisdiction of the said justices, there to be imprisoned with or without hard labor for any period not exceeding three calendar months, or be fined to the extent of £3; or if a male, be once privately whipped, either instead of or in addition to such imprisonment, or imprisonment with hard labor."

The offence is defined to be that which in the English law is known as simple larceny, and is "the felonious taking and carrying away of the goods of another of whatever value, unaccompanied with any other circumstances than the mere taking and carrying away." To constitute the offence however there need not be an absolute carrying away; for it will suffice if the offender with a felonious intent merely removes the goods from the place where they lay, though he do not make off with them.

In 1850 a Committee was held in the House of Commons on prison discipline, before which was brought, as Miss Carpenter observes, much important evidence respecting the effect of imprisonment on juveniles, in addition to that which had been tried before the Committee of the Lords.

In 1850-51 Act 13 and 14 Vic. was passed, by which the summary jurisdiction of justices is in like cases extended to offenders of 16 years of age, but it expressly provides that whipping shall not be inflicted on any offender who is more than fourteen years of age. This Act moreover gave to any young offender, or the parent of any such, the right to claim to be tried by jury and not by Act (11 and 12) and (13 and 14).

In 1851, a Conference was held at Birmingham, and adopted the following resolutions :—

"The object of the conference was

"A consideration of the condition and treatment of the perishing and dangerous classes of children and juvenile offenders, with a view of procuring such legislative enactments as may produce a beneficial change in their actual condition and their prospects.

"The children whose condition requires the notice of the conference are

I. Those who have not yet subjected themselves to the grasp of the law, but who, by reason of the vice, neglect, or extreme poverty of their parents, are inadmissible to the existing school establishments, and consequently must grow up without any education; almost inevitably forming part of the perishing and dangerous classes, and ultimately becoming criminal.

II. Those who are already subjecting themselves to police interference, by vagrancy, mendicancy or petty infringement of the law.

III. Those who have been convicted of felony or such misdemeanor as involves dishonesty.

"The provisions to be made for these three classes are :—

For the first.—The day schools.

„ second.—Industrial feeding schools, with compulsory attendance.

„ third.—Penal reformatory schools.

"The legislative enactments needed to bring such schools into operation are

For the Free Day Schools.

Such extension of the present Government grants from the Committee of Council on Education, as may secure their maintenance in an effective condition, they being by their nature at present excluded from aid, yet requiring it in a far higher degree than those on whom it is conferred.

For the Industrial Feeding Schools.

Authority to magistrates to enforce attendance at such schools on children of the second class, and to require payment to the supporters of the school for each child from the parish in which the child resides, with a power to the parish officer to obtain the outlay from the parent, except in cases of inability.

For the Penal Reformatory Schools.

Authority to magistrates and judges to commit juvenile offenders to such schools instead of to prison, with power of detention to the Governor during the appointed period, the charge of maintenance being enforced as above."

• In 1852-53 a Committee of the House of Commons adopted the following resolutions on this important subject :—

• "I. That it is the opinion of this committee that a great amount of juvenile destitution, ignorance, vagrancy, and crime, has long

existed in this country, for which no adequate remedy has yet been provided.

"II. That the existence of similar evils in France, Germany, Switzerland, Belgium and the United States has been met by vigorous efforts in those countries, and in the opinion of this committee, sound policy requires that this country should promptly adopt measures for the same purpose.

"III. That it appears to this committee to be established by the evidence that a large proportion of the present aggregate of crime might be prevented, and thousands of miserable human beings, who have before them under our present system nothing but a hopeless career of wickedness and vice, might be converted into virtuous, honest, and industrious citizens, *if due care* were taken to rescue destitute, neglected, and criminal children from the dangers and temptations incident to their position.

"IV. That a great proportion of the criminal children of this country, especially those convicted of first offences, appear rather to require systematic education, care, and *industrial* occupation, than mere punishment.

"V. That the common jails and houses of correction do not generally provide suitable means for the educational and corrective treatment of young children, who ought when guilty of crime to be treated in a manner different from the ordinary punishments of adult criminals.

"VI. That various private reformatory establishments for young criminals have proved successful, but are not sure of permanent support, and are deficient in legal control over the inmates.

"VII. That penal reformatory establishments ought to be instituted for the detention and correction of criminal children convicted before magistrates or courts of justice of serious offences.

"VIII. That such penal establishments ought to be founded and supported entirely at the public cost, and to be under the care and inspection of the Government.

"IX. That reformatory schools should be established for the education and correction of children convicted of minor offences.

"X. That such reformatory schools should be founded and supported partially by *local rates* and partially by contributions from the state, and that power should be given for raising the necessary amount of local rates.

"XI. That power should be given to the Government to contract with the managers of reformatory schools, founded and supported by voluntary contributions, for the care and maintenance of criminal children within such institutions.

"XII. That the delinquency of children, in consequence of which they may become subjects of penal or reformatory discipline, ought *not* to relieve parents from their liability to maintain them.

"XIII. That in any legislation upon this subject, it is essential that power should be given, under such restrictions as may be necessary to prevent hardship, or injustice, to recover from parents the whole or a portion of the cost of the maintenance of their children, while detained in reformatory institutions.

"XIV. That it is also essential that power should be given to detain children placed in such institutions so long as *may be necessary for their reformation*; provided always that no child be so detained after the age of 16.

"XV. That the summary jurisdiction with respect to criminal children, given to magistrates by 10 and 11 Vict. Cap 82, has had a beneficial tendency so far as it has been exercised.

"XVI. That in addition to the discretion which is given by that statute to any court before which a child is charged with any minor offence to dismiss such child on securities being found for its future good behaviour, a power should be given in such cases, in default of such sureties, to send the child to a reformatory school.

"XVII. That if during any child's detention in a reformatory school satisfactory sureties should be offered for its future good behaviour, there should be power to release such child from future detention.

"XVIII. That irrespectively of the high moral considerations which are involved in this subject, this committee desire to express their belief, that whatever may be the cost of such schools and establishments, they would be productive of great *pecuniary* saving by the effect which they would have in diminishing the *sources* from which our criminal population is now constantly recruited, and thereby reducing the cost, the great cost, of the administration of the criminal law."

In 1854, Act 17 and 18 Vict. was passed, entitled "an Act for the better care and reformation of youthful offenders in Great Britain."

By it the following powers are granted : Judicial officers who sentence a juvenile offender under sixteen years of age, for any offence, to fourteen or more than fourteen days imprisonment, are empowered also, if they so choose, "in addition to the sentence then and there passed as a punishment for his offence, to direct such offender to be sent at the expiration of his sentence to some one of the aforesaid reformatory schools to be named in such direction, the directors or managers of which shall be willing to receive him, and to be there detained for a period not less than two years and not exceeding five years, and such offender shall be liable to be detained pursuant to such direction." The Act provides that the original sentence must not be for less than 14 days, and that the Secretary of State Home Department may at any time order the discharge of an offender from any such school.

• The cost of *maintenance* of the offender may be defrayed either entirely out of "any funds which shall be provided by Act of Parliament for that purpose," or such portion of such cost as shall not have been recovered from the parents or step-parents of such child."

Absconding or refractory conduct at the reformatory school may be punished on the oath of one credible witness, by committal to a house of correction or jail with or without hard labor for any period not exceeding three calendar months. Within the period fixed in the sentence for detention at a reformatory school, the Secretary of State Home Department can remove an offender from one school to another. By this Act these schools are brought under Government inspection.

In 1855 this Act was amended by Act 18 and 19 Vict., in order to make provision for enforcing contribution by parents to the maintenance of juvenile offenders in reformatory schools.

In 1856 Act 19 and 20 Vict. was passed, "to amend the mode of committing criminal and vagrant children to reformatory and industrial schools."

By 17 and 18 Vict. of 1854, the particular school was required to be named in the direction of the justices; by this Act this is no longer necessary.

Young persons not to be sent to schools to which parent &c., object.

In 1857 Act 20 and 21 Vict. was passed, "to promote the establishment and extension of reformatory schools in England."

Under this Act grants-in-aid may be given under the following restrictions. The grant may be applied only "towards defraying the expenses of purchasing the site of a school on its first establishment, or the site of any extension or new establishment for the purposes of a school already established, or the expenses of building and fitting up a school on its first establishment, or erecting, altering, or fitting up any buildings for the extension or improvement of a school already established; and the justices or council, as the case may be, shall provide for the application of such money accordingly."

The Act further provides that grants-in-aid may not be given to schools already established, unless the Secretary of State has certified that the said schools are efficient, and without his sanction to the outlay.

Amongst other points this Act for the first time recognizes the vital necessity, so thoroughly carried out in the Irish system, of some test being applied to offenders prior to their discharge, to ascertain whether they really are reformed: the Act says:—

"It shall be lawful for the managers of any reformatory school, previous to making application for the discharge of any juvenile offender committed to such school, to place such offender on trial with some person, to be named in the licence hereinafter, most willing to receive and take charge of him; and to grant to such offender a licence under their hands or the hand of any one of them to reside with such person for any term not exceeding thirty days unless sooner called upon by the said manager to return to the said school; and to require such offender to return to the said school at any time during the same; and such managers shall bring back such offender to the said school at the expiration of the said term, provided that such offender shall not have been previously discharged from the school by order of the Secretary of State; and any offender who shall abscond from such person during such term, or shall refuse to return to the reformatory school at the end of such term or before the end of the time, when so required, shall be held to have absconded from the school and shall be liable to the penalties in that case made and provided. Provided always, that no such offender shall be so placed out before the expiration of one half of the term of detention to which he was originally sentenced."

The Recorder of Birmingham, Mr. Hill, in his charge to the grand jury in October 1859, observes on the subject of reformation:—

"The establishment of reformatory schools, I am happy to say, has been eminently successful, a result which is now universally acknowledged; indeed, a long time has elapsed since I heard a dissentient voice. I attended the week before last a meeting for the promotion of social science at Bradford in Yorkshire, at which I had the happiness of meeting many trustworthy persons, well qualified to speak to this success by their practical knowledge. Some were magistrates, others managers of reformatory schools, others again were Governors of prisons, all corroborated by their testimony the success which I have claimed for the operation of reformatory schools.

"Mr. Baker has labored at his reformatory with untiring zeal for many years, and is a high authority on the treatment of juvenile criminals. He, gentlemen, attributes the effectiveness of reformatory schools to the abstraction of the young leaders of the gang. Withdrawn from the haunts of crime, and placed under wholesome discipline, they have neither time nor opportunity for spreading moral contagion. I use that

term advisedly gentlemen, because I believe crime to be as infectious as any of the physical maladies to which our frames are liable; and therefore, if at the close of the probation it were found that no youths had been reformed, it would still (however lamentable the fact) remain unproved that reformatory schools had failed of all good effect. For the mere fact of keeping inmates for a long time out of the arena of crime prevents them for that period from contributing to infect innocent youths with whom they would form acquaintance, and to whom they could hold out irresistible temptations. But thank God there is no necessity to place the benefits of reformatory schools on so low a footing. The inmates are indeed reformed to an extent, and in numbers far beyond my most sanguine expectations. We may clearly see that the withdrawal of juvenile offenders will in the course of time act powerfully in diminishing the number of the adult members of the criminal class by withholding recruits."

An able writer remarks on this charge by Mr Hill:—

"The reformatory schools, small as their number is (1859) are already effecting this change; and also may it be said that the more intelligent management of prisons is gradually contributing to the same result. The reformatory operates in several ways, but chiefly in two. It takes the incorrigible lad and places him for a sufficient number for years under the reformatory process, to find out that he is corrigible. Lads who had been abandoned as hopeless, even by parents, have under the management of experienced and earnest men like Mr. Baker and Mr. Bengongle, proved capable of being converted into honest youths. It often happens that the motives which draw a lad into bad courses are a too lively sympathy with the companions by whom he may happen to be surrounded; boldness, ingenuity, and love of adventure, qualities which do not in any degree indicate a nature really bad, though under the tuition of the marine store dealers, and in the college called the house of correction, as it *used to be*, these promising youths are converted into very efficient thieves, swindlers and highwaymen; professors well able to teach their art and mystery to other students. The reformatory carries off these lights of their age, removes them for five years or more, or for ever; and the consequence is, that duller spirits amongst boys of the same class fail to catch the fire of the vicious inspiration; and follow a quieter routine in some ordinary and less adventurous employment. Many an honest man is now growing up quite unaware of the thief he might have been but for the founders of reformatories."

Mayhew, in his work "The Criminal Prisons of London," observes regarding juvenile delinquents:—

"Nor can we explain the continual existence of so large an amount of iniquity in the land other than by the fact of the offenders being regularly born and bred to the business. Not only in our juvenile prisoners do we see the future bandits and ultimate convicts of the country, but we see also the bitter result of the State's gross neglect of its parental duties to out-cast and destitute children among us. Twist and turn the matter as we may, we shall find at length, if we come to the matter willing to fathom and

eager to embrace the truth of this most *vital* problem, that *habitual* crime is purely the consequence of want of fatherly care to the young, and this is demonstrated to us by the fact that in those countries where the education of all children is enforced by law, and the young are thus made to pass the *principal part of their time* under the eyes of a teacher and adviser, if not a guardian or friend, the national records show a less comparative amount of crime than in those nations where the youthful poor, as with us, are allowed to remain gambolling as well as gambling all the day in the gutter with fellow idlers and profligates if not with thieves. This is the sole reason to be cited why in Holland and Prussia, and even Catholic Belgium, there are less criminals in proportion to the population than with us."

On the 8th October 1860, the Recorder of Birmingham, Mr. Hill, in his charge to the Grand Jury, thus observed on the two subjects, reformatory establishments for boys and ragged schools. After attributing a great part of the diminution of crime amongst juveniles to the action of reformatories, he says :—

"The futility of the deterrent principle as applied to the young may therefore now be taken as an accepted truth, requiring no further defence. But as regards the application of the principle which is exemplified in reformatory schools, a fallacy yet lurks in the public mind which I think it important should be dislodged. Prevention we are told is better than cure, a proposition which I believe never has been, and I think I may venture to prophecy never will be, disputed. But gentlemen a truism is often thrust forward to cover the advance of a fallacy, and the fallacy which accompanies this truism is, that reformatories dealing only with offenders are of inferior utility to schools, which, taking charge of what have been called the 'perishing and dangerous classes of our juvenile population,' prevent their fall into crime. That seminaries of the latter kind are most essential to the well-being of the country, I for one not only admit but strenuously maintain; but let them not be marshalled in *opposition* to reformatories. Each is and I fear ever will be a social necessity; for use what vigilance you may—you cannot bring all under this preventive tuition for whom such safeguard is intended; and moreover it is exactly the individuals who most require training whom it is difficult to allure and retain under control.

"Prevent, then, if you can; but reform where you have failed to prevent. It would however be unjust to reformatory schools to forget that although their direct purpose is to reform, they have a large incidental operation in preventing. Crime is contagious, and the more you diminish the number of the infected the more you limit the spread of the disease. But as I have already shown, particular individuals, that is to say, boy leaders, have a power of disseminating the seeds of crime far beyond that possessed by the majority of their class whom nature has destined to be followers; followers if successfully trained in that which is good, but followers in that which is evil when training has not been applied, or when it has failed of the desired effect."

Mr. Hill then alludes to the Conference of 1851, the proceedings of which I have described, and continues :—

"We thus evinced gentlemen our desire to give no undue prominence to reformatory discipline over what has been exclusively called preventive. But gentlemen, after deciding what we should wish to be done were our means equal to our desires we had further to consider the nature and extent of those means.

"Popular assistance was indispensable, and that we knew would only be afforded in concurrence with popular sympathies, already deeply engaged on behalf of the young prisoner, who, placed on a stool in the dock that his head might be seen over the bar, was treated as if he presented to the court his real stature, and his offence dealt with according to the rules which governed the fate of adult criminals. It is not surprising that such a spectacle daily exhibited should rouse the feelings of a Christian people, and that public opinion should point to the case of juvenile prisoners as the one which ought to absorb our efforts. But that spectacle having thank God passed away, we may readily understand how it is that the public have turned their thoughts more exclusively towards prevention; and thus great progress has been made in purely preventive treatment. Hence the expansion of the admirable system which is designated as that of ragged schools, a name which being meant to indicate the state of the poor child on his entrance has been mistakenly supposed appropriate to him during his whole stay; whereas it is felt by his teachers that no secular instruction can be so desirable as that which puts it in his power, partly by his own exertions and partly by the good influence which he leaves to exercise over his parents, to come among his schoolfellows clothed in decent apparel.

"This then is the school which we intended to describe in our first proposed resolution (*vide* Conference of 1851). The scholar has *not* been convicted of any breach of the law however slight. He has the means of subsistence furnished to him by his parents, or those who stand to him in the relation of parents. He is above the position which renders it advisable, either as regards the state or as regards himself, to convert him into a pauper, and throw the burden of his maintenance on the rate-payers to the exoneration of his natural guardians. Yet it cannot be denied that, even to render the poor child capable of receiving instruction and attending to the business of the school, the scanty aliment must be eked out by charity. But the burden is not so large as persons unacquainted with the class of which I am speaking would be likely to surmise. In truth it is not greater in those parts of the country with which I am most familiar than is willingly borne and administered; these doles are scarcely capable of abuse.

"By none is the danger of fostering a spirit of pauperism so dreaded as by the experienced and zealous philanthropist; by him who, not content to hand over his money, in blind faith that it will be honestly and discreetly expended, adds his time to his other donations, and is rewarded by acquiring an insight into the true principles of charity, which imbue him with a horror of the whining imposture to which ill judged pecuniary aid pretty generally reduces its victims. He learns that the best charity, that which *alone* deserves the name, so deals with its objects as gradually to

render assistance both unnecessary and undesired. He knows too that while all other gifts have an unavoidable tendency to encourage a pauper spirit, that of instruction is free from this taint; and hence, while he strives to reduce all other aid to a minimum, he puts no stint on that of education, although he is conscious of the importance of directing it strictly to the purposes to which gratuitous education ought to limit its views: that is to say, to the rearing of honest men and women, possessing the will and the power to maintain themselves and their families by their own toil. Gentlemen, the class of children to which I have drawn your attention is the most difficult in the world to govern. To ordinary motives and expedients the masters can seldom resort with effect. The parent who pays for his children shows by that act that he values what is called 'schooling,' and will lend his aid to the master to secure the attendance of the child. But the class to which I refer is not paid for; the instincts of the parent are sufficient to induce him after some rude fashion to feed, clothe, and house his child; but there is no motive in his mind strong enough to compel him to pay for education. He has had none himself, or so little and that so repulsively offered, that he has derived neither pleasure nor profit from what he has received; he therefore, instead of promoting the punctual and regular attendance of his offspring, throws hindrances in his path to school whenever his own interests, or his caprice, or the desires of the child himself so dictate.

"Again, it will be thought that the receipt of food at school would present an all-potent allurements. But in the first place the conductors act with regard to such gifts under the wholesome restraints already pointed out, and in the next place children of this class are inured to hunger and cold, and consequently often prefer their darling pleasure of wandering at their own will to a dinner, coupled as it is to the restraints of school.

"Our Conference, gentlemen, stimulated popular action upon the Government and the legislature, and many of the changes for which we asked have been conceded. The Government gave liberal aid to reformatories by grants of money, and by the appointment of a most able Inspector, whose advice and supervision have been invaluable. Industrial feeding schools have also received the bounty of the Government. The industrial feeding school is a noble institution. The laws by which it is regulated owe much to the amending hand of our respected neighbour Mr. Adderly, M. P., who is still earnestly bent on perfecting their provisions.

"But inasmuch as in the nature of things the people of every country must be governed, and as that Government must be paid from a common fund, if it shall be found that instruction and training when applied to qualify the recipient for performing his duties as a member of society, reduce to a minimum the expense of governing him, and to nothing at all his injurious action on his neighbours, then, and so far, I look upon education to be a part of Government itself; and consequently, where the cost of such tuition cannot be extracted from its natural sources, I consider it is self-evident that it should be furnished by the state. Whether it should come from the Privy Council, or from the Home Office, whether it should be charged upon the general revenue of the country, or raised by local rates, these are questions into which I will not enter. But I stand upon the broad and irrefragable truth, that as the disburse-

ment is called for by the interests of the state, by the state ought it to be borne; and I must unite my humble protest to the masterly argument of Sir John Pakington in the House of Commons, the fervid appeals of Dr. Guthrie, and the unanswerable remonstrances of Mary Carpenter, against the huckstering frugality with which our ministers let go their coin, shilling by shilling, to the ragged schools, a parsimony which when contrasted with the plenitude of our munificence in favor of classes of the community able and willing to contribute to the education of their children, strikes me as the most astounding example of inconsistency which has occurred in my time."

On January 23rd 1861, a second Conference was held at Birmingham by all the most distinguished persons in Great Britain whose attention had been directed to these subjects; with the object of inducing the Government to do something for those poor children who from their poverty and destitution were living, if not actually in crime, yet on the very verge of it. As the treatment of such children is indissolubly connected with that of children who have actually fallen into the grasp of the law, and as the statements made at this Conference are full of the most valuable instruction, I give extracts therefrom.

Prior to the assembling of this second Conference, the following circular was issued:—

"GENERAL PRINCIPLE.

"The welfare of society requires that all its members should be educated. Therefore

"It is the duty of the State, both as regards society in general and each individual composing it, to provide education for those who cannot obtain it for themselves. This duty is recognized by the State, since it provides education for those who are in jails and reformatories, and therefore come compulsorily under its care, and for those who are thrown on society for support, i. e. paupers.

"The same duty exists, but has not been discharged by the State towards children who are not as yet either criminal or paupers, but whose natural guardians will not, or cannot, provide for their education.

"It is an object of the Conference to lay before the executive Government and the legislature, as a consequence of the principle above stated, the imperative duty of their providing education for this portion of the community, the neglected and destitute children of Great Britain.

"The following points will be proved to the satisfaction of the Conference.

"I. No part of the Parliamentary educational grant is directed to the instruction of this class in the ordinary branches of school

learning, although an insignificant grant is made for industrial training; but *educational* aid is given *only* to the children of those who can and will do something towards providing an education for their offspring.

"II. A very numerous class exists whose members cannot thus obtain it.

"III. This class has been acted on during the last 16 years in ragged and industrial schools, and sufficient proof has been afforded to the Government and to the public that the management and plans adopted in these schools, in so far as there has been sufficient pecuniary means to carry them out, have attained the end intended, namely, the neglected and destitute children have been saved from becoming paupers and criminals, and have become respectable, self-supporting members of society.

"IV. But the experience of these 16 years has proved that these schools cannot be steadily supported in the required efficiency, or extended to all the districts needing them, by voluntary aid *alone*. To be useful these schools must be good, and if good, they are very expensive.

"V. An essential element in all these schools is the voluntary action of Christian benevolence, which by personal effort even more than by pecuniary expenditure, has been the means of elevating this neglected class.

"VI. Therefore it is the duty of Government to give liberal financial aid to these schools (as is at present itself, as in the case of reformatories, of voluntary effort) so as to enable schools already existing to be carried on efficiently and to enable the public to the establishment of others wherever they are needed.

The following extracts, taken from the speeches made on the occasion, are of necessity brief, and refer only to such points as appear useful for guidance in India. Much that is most interesting is omitted (though with regret) as being applicable only to England, or countries in an equally advanced state of civilization, where the religion of the governed is also that of the governing class.

From the speech by Mr. Hill, Recorder of Birmingham:—

"The object which has called us together to-day is to do our best towards bringing the little out-casts of society into the brotherhood of mankind, and enabling them to hold their new position by conferring on them, so far as instruction and training at school may avail, the faculty of self-maintenance in both its great branches; that is to say, the power of earning a livelihood for themselves, and the power of self-government to protect them against the manifold temptations to evil by which they are sure to be attacked.

"If then by virtue of a small present outlay we succeed, their industrious neighbours will be spared the onerous task of providing for their subsistence, and the community at large the injuries, the losses, and the heavy pecuniary burdens which these poor children will entail on their country should they fall into crime—the too frequent consequence of an outcast life.

"Such being our object, we are prepared to admit that whatever branches of instruction are likely to redound more immediately to the advantage of the individual than to the interests of society, lie beyond our scope. That the grand truths and commandments of religion should stand first in any system of education, for every class will not be denied. That the moral duties call for unremitting attention on the part of the teacher, will be at once admitted; and moreover, that it is impossible too earnestly to promote the moral and mental acquirements peculiarly adapted to the wants of our class of pupils, namely, honesty, intelligent and persevering industry, self control and self respect.

"Specific branches of secular instruction must, I submit, be chosen strictly with a view to the great end of making the pupil a good citizen, acting well his part in the rank of life in which *he was born*. If the result of this training should enable him to advance his position, it will still remain true that such is not the mark aimed at, but an incident which we neither go out of our way to seek nor do we grieve over it when found. Knowing that such a consequence in individual instances (and none other can be reasonably expected) while it will not disturb the order of society, must operate as a useful stimulus to youths who start with vantage ground in the race of life, urging them not to suffer themselves to be out-run; yet, as whatever may be the effect on its worldly fortunes, sound education must always be more precious to the immortal child than to the mortal state of which it is a member, the primary duty to bestow this blessing on his little ones rests on the immediate author of their being;—and therefore, wherever the parent is both able and willing to perform this duty, the tutelage of the state becomes unnecessary, and consequently undesirable. So far I shall probably meet with no dissent; but as regards what is to be done where the parent *can* perform his duty in whole or in part and *will not*, grave differences of opinion exist. If you allow the repudiating parent, it is alleged, to throw the burden which he is capable of bearing himself on the shoulders of the public (heavily loaded as they are) the state is unjustly taxed: to which my answer is, if it is better for the state to bear that burden than to suffer any of its members to grow up in ignorance, and so in the end to afflict it with the far heavier burdens of pauperism and crime, then, unless the state has both the power and the will to enforce the performance of his duty on the recalcitrant parent, it will do wisely to prefer the lighter burden to the heavier. First, then, as to compelling the parent by force of law to educate his child, either by himself, or by paying for its education by others. Is it not enough to say of this imagined project, that such a stretch of legal authority has never yet been attempted in any age or country? and may we not very safely promise to withdraw our claim for education at the public cost of all children whose parents can, but will not, furnish the requisite means whenever such a law shall have passed our legislature? But to treat the objectors with fairness, it must be admitted that they have never dreamt of such an enactment; what they rely upon is the natural consequence on the competent parent of withholding that assistance from public sources which he himself does not supply. But what is that consequence? It is that his child grows up in ignorance, and encounters its disqualifications and its perils. That however is a consequence which the very line of conduct adopted by him proves he is willing enough his child should encounter. Doubtless, if he himself were the only party to suffer, he might be left to the results of his own choice. Perhaps, also, we might be forced to admit (however reluctantly) that if he and his child were the only parties to be con-

sidered, the child must in that instance, as in so many others, be left to bear as he best may the bitter calamities which spring from evil parentage. But if it remain true that the interests of the third party, the community into which the child is born, will suffer or gain as the child is brought up in ignorance or becomes the recipient of good instruction and Christian training; and if the loss on the one hand, or the gain on the other, far outweighs the outlay which is to determine the lot of the poor child, are we the public to spite ourselves because if the parent did its duty we should obtain the advantage without paying its price? The objectors argue loosely from admitted facts. The parent furnishes his child with shelter, food and clothing, and so far identifies himself with his offspring. But many a parent who will strain hard to supply physical wants, for which his sympathies are quick and easily roused, will not forego the slightest gratification to supply the want of education for his child, because that is a want which he cannot realize to his own perceptions; so that to argue from the parent's willingness to supply wants which he *does* recognize, that he may be *made* willing to supply those which he does *not* recognize, is but fallacious reasoning. In truth, what jurists would call the solidarity of the parent and child is pushed by the objectors further than the law of nature (which nevertheless is the only law they would invoke) is able to vindicate the relation. But the principle for which we contend, namely that of State provision for educating children whose parents neglect that duty, is practically admitted in our legislation as respects various classes; and consistency, in addition to more potent reasons, requires it should be extended to that of which we are the advocates. It is applied already to children in jails, to the extent of relieving the parent, whatever may be his wealth, not only from the burden of their education, but from that of their subsistence; whereby, as I confidently submit, the principle on which I am relying is in practice exaggerated until it becomes an abuse; in reformatory schools the principle is exemplified well nigh in its purity. Here the parent is not relieved of his whole burden; but up to a certain limit he pays for his child a sum adjusted in proportion to his ability. But why should there be any limit fixed on behalf of the competent parent short of the total cost of the child, in the boarding school in which (in lieu of a prison) he is consigned by the benignity of the law.

"In poor-houses, however, the principle may be seen in its perfect exemplification, not being unduly qualified on the one side or on the other. For the pauper (though perhaps by his own default) having no means of self maintenance, the burden of his keep, and also his child's keep and education, falls necessarily upon the State, and the whole burden is at once accepted. Your children we are told are either the offspring of paupers and therefore paupers themselves, and in that case must be educated by the guardians of the poor; or they are criminal children, who ought to be brought within the grasp of the law, when for greater offences they will be consigned to the reformatory, while for less infractions they will be sent to the industrial feeding school. I waive the objections that industrial schools are as yet but few, and that it is, but seldom we find magistrates willing to enforce the somewhat perplexing statutes which give them compulsory powers. Again, I waive all objection arising out of the difficulties which lie in the way of procuring (through the guardians of the poor) an efficient education for pauper children; meaning by efficient education one that lays the axe at the root of hereditary pauperism: for I stand on the position that our children are neither paupers, nor criminals, although the

ground which they occupy is conterminous with that of both classes, and the line of demarcation is not seldom evanescent. The physical wants of our children are supplied from the natural sources; often ill supplied no doubt, yet not so ill but that the managers of ragged schools are willing to supplement, as occasion may arise, any deficiency so far as it is requisite to prevent the pupil from being disqualified by hunger from engaging in the business of the school; and as regards this expense they do not seek assistance from the Government: these children are therefore not paupers. Nor have they been convicted of the slightest breach of the law, consequently they are not criminals; and therefore they cannot be sent by compulsion either to the reformatory or to the industrial feeding school. May not, I would ask, such a classification as that for which objectors contend, do something towards driving both the child and its parent into the ranks of the pauper or criminal population?

"For ourselves, we ask only that the public grant shall equal our private contributions, adding our labor, whatever that may be worth, to the amount subscribed. Let me incidentally remark that we will not here enter into any enquiry as to whether the grants shall be drawn from the general taxation of the country or from local rates.

"It cannot be denied and ought not to be concealed, that when grants are made in proportion to private contributions, some districts will remain without provision. We are aware of this defect. It has always existed. No remedy has hitherto been discovered, and we are not prepared to suggest one ourselves. The legislature and the Government have justly determined that notwithstanding the principle of state subsidies cannot be carried into effect with systematic perfection; a sufficient amount of good is attainable to justify its application as long as it can be accompanied by a reasonable guarantee. I believe we only ask the Government to be consistent with themselves, that not having delayed their subsidy to other classes until a perfect system could be devised, they shall not for such a reason withhold it from us."

The Recorder moved as the first resolution:—

"That obedience to the laws of God and man is powerfully promoted by the diffusion of sound knowledge, and the training up of the young in the exercise of the great duties of life; wherefore, it is incumbent on the state, as far as possible, to insure education for all children for whom their parents are through poverty unable, or through ignorance unwilling, to provide it."

Miss Carpenter, the author of that late work "Our Convicts &c.," read a valuable paper at this Conference, from which I give the following extracts:—

"We must first realize the existence of a portion of our population which is nearly untouched by the institutions of our country; except the poor-house, the police force, and the jail. They are in a state of semi-barbarism; they are slaves of their lower instincts and passions; they have no care for what does not immediately concern their present needs; nor will they sacrifice their convenience or their money to obtain education for their children: for they no more comprehend its true value than a man blind from birth can

understand the value of sight. They live in a state of ignorance of all that constitutes civilized society; a practical ignorance of man's immortal nature and destiny; an ignorance which degrades below the brute creation, that *does* fulfil after its kind the end for which the Creator gave existence; which chains the sense and debases by sensual indulgences; which makes men hunger only for the bread which perisheth and not for that which is the nutriment of true life; which makes them thirst only for that which stimulates to maddening frenzy, preventing them from receiving the waters of life.

"Such is, in few and faint words, the meaning which is really hidden under the simple word *ignorance*; but which is too often lost sight of in our anxiety to convey rudiments of book learning, which we most falsely suppose will be an antidote to crime, and the effect of such ignorance is not only that the individuals laboring under it are utterly unfit to hold any useful social position in the state; not only that they are without such *practical* acquaintance with the laws of God and man as will withhold them from the crime into which they are continually led by the desire of sensual gratification; but that they live in a state of entire isolation from the comparatively virtuous and respectable portion of society, and consequently more or less in absolute antagonism to it. Now I have been frequently asked by statesmen to define this class to them, and always ineffectually; no words or definitions which I could use conveyed the reality to those who had never become practically acquainted with it. Official gentlemen who may have examined the entry books of a ragged school, and found there the names of trades exercised by the parents similar to those which may be met with in higher schools, have carried away the impression that the difference between the two classes was imaginary. A *visitation of the homes* would have convinced them of the contrary; several hours conversation with one of Her Majesty's Inspectors of Schools, endeavouring to make him understand the peculiar requirements of ragged schools, founded on the condition of the class they are intended for, left the subject where it had begun; but no sooner had his duties called him to inspect such a school, than he at once perceived the indescribable difference which exists between the scholars of that and of higher schools, and saw that they required large help, and that of a different kind from others. The want of knowledge existing among legislators of the *actual condition* of the mass of the population whence spring these unfortunate children, has doubtless been the cause of their remaining hitherto unhelped.

"Religion and true political economy are not at variance, for both are founded on the laws by which the all-wise Ruler governs the universe. If a great duty is neglected, retribution will always follow. Such *has* followed and *will* follow as long as the evil continues; it rests as a blight on our country, and is felt in the enormous expenditure of public money on our jails and work-houses."

Speaking of these "Ragged Schools," Miss Carpenter continues:—

"Sir, time has proved that they *cannot without aid from public funds* efficiently carry out this work, or establish schools where most needed.

"While we urge that if no educational help were given to any other portion of the population, means should be taken to extend it to this; the state availing itself as in the case of reformatories and industrious schools, of existing voluntary effort; yet since there is an annual parliamentary educational grant made to second voluntary effort, and to aid in the instruction of the people, we ask that grants should be made to these schools in the same proportion to the pecuniary contributions as in other schools; and as this portion of the people require the help the most, for the good of society, as well as for the benefit of the child, *most* should be given to them. We ask this on the ground of *simple justice*."

The following extracts are from a speech by Dr. Guthrie, of Edinburgh, delivered at this Conference:—

"What then is the starving ill-treated child to do? He must starve, or beg or steal. There is not a man on this platform who would hesitate, were he one of these children, about what course he himself would adopt. Think of your own children in such a condition! what would you expect of them? to starve? certainly not; a child thus left is forced to become a beggar; he will begin a beggar and end a thief. By and by he is brought to the bar of the police office, and charged with crimes which any of us would have committed had we been in his circumstances; charged with crimes which he could not help committing, and punished by magistrates for sins which I say he never did commit. He knew no law—where there is no law there is no transgression. That is the word of God and the common sense of man. Man may put that infant at the bar, but I believe, as I believe that there is a just God in heaven, that when he is arraigned at the bar of the judgment day, he will not be dealt with there as a sinner? What can such children do? yet see their cruel fate. They are committed to so many days' imprisonment or so many weeks' hard labor. They go in bad, they come out worse. You might as well bring a poker which has knocked a man's brains out, into a court of justice, and laying it on the table try it and find it guilty. It is all the same.

"Now we have in Scotland a capital way of giving verdicts. In England it is either guilty or not guilty; we are further north and wiser in Scotland. There is many a rogue you cannot prove guilty though you have no doubt about it; in such a case we return a verdict of 'not proven.' Now suppose a child such as those I have described put to the bar of a police court. A policeman swears 'I found the stolen property on him,' or 'I found it at his mother's house.' Well if I were the chancellor of the jury, or the foreman as you call him, if the boy had never been sent to school, never been trained to virtue, had been brought up to vice, and compelled by his parents to steal, the verdict I should bring in would be, proven, but *not* guilty. Take him from the bar and put the guilty party there. It is not he; it is the mother or the father who neglected him and taught him to sin; and if there are no such persons to put to the bar, then I say the fault lies with the ministers of religion and the ministers of the State who neglected this child. I turn round on the ladies and gentlemen who go with their prayer books and bibles to church and I say, in neglecting that boy you are the guilty parties; you ought to be punished, and not he."

"Well we set up our schools, cleared the streets of such beggars, and reduced the juvenile delinquents to one-fifth their original number. Having done so, we went to Government, and said, 'you have tried to

make people better by hanging; no doubt you got rid of the man who was hanged, but your system made others worse. You set criminals to turn cranks and tread-mills; you tried to make them good by police, with what result? They swarmed just as before, thick as bees, in spite of your punishments. You never cleared the streets, you never reduced the number of jail inmates; but we have done so; done what you never did nor could have done by your old system. You can never make men good by mere punishment. And do you think to make these poor children obedient to law by punishment? It is in the face of God's Gospel. The plan *has been* and *must be* a failure.

"As to our scheme we do not wish the Government to take our schools and to educate these children. Only we say, *aid us*; if you don't help to educate these children *outside* the prison, you must educate them within it. Is it a better thing to let disease rage and ravage a community and to attempt to cure it, than to prevent its entering and check its growth? But the first has been the Government way. They seem to think it is a grand thing to give a man the fever and then cure him; that it is not best to drain and cleanse the town and prevent the fever coming. Think of Government refusing money to save a man's leg, but giving him liberally to buy a wooden leg when the limb is cut off. See what they do? They give much more to reformatory schools than to ragged schools; much more to those who try to reform one who has become bad, than to those who try to prevent him from becoming bad. They give to every inmate of the reformatory school one shilling each per day, and to every child in the Edinburgh ragged schools a coin which does not happen to exist—so small is its value—they give half a farthing."

In September 1860, Lord Brougham thus spoke, at the Glasgow meeting of the Social Science Congress:—

"It is unfortunately impossible to express the same satisfaction with the conduct of the Government upon another yet more important question; the education of the humbler classes of the people. The subject was brought before Parliament by our colleague Sir J. Pakington, in an admirable speech, urging the claims of ragged schools to a share of the Privy Council grant. The refusal to assist in preventing pauperism and crime by diligently educating and training the class of children from whom vagrants and criminals are bred, is perhaps one of the greatest economical, let us rather say social, mistakes ever committed. It is an abdication of the most imperative duties of a state; that of helping those who cannot help themselves; as well as the self-destructive economy or gross impolicy of withholding a little outlay in schooling from those on whom it must afterwards spend largely in the way of jails and work-houses."

In 1861, a most valuable Act was passed entitled the "Industrial Schools Act" (24 and 25 Vict.).

The following description of children may under it be committed to an industrial school:—

"I. Any child apparently under the age of fourteen years, found begging in, or receiving alms, or being in any street or public place for the purpose of begging or receiving alms.

"II. Any child apparently under the age of fourteen years, that is found wandering and not having any house or settled place of abode, or any visible means of subsistence, or frequents the company of reported thieves.

"III. Any child apparently under the age of twelve years, who having committed an offence punishable by imprisonment or some less punishment, ought nevertheless, in the opinion of the justices, regard being had to his age and to the circumstances of the case, to be sent to an industrial school.

"IV. Any child under the age of fourteen years whose parent represents that he is unable to control him, and that he desires such child to be sent to an industrial school, in pursuance of this Act, and who at the same time gives such undertaking or other security as may be approved by the justices before whom he is brought, in pursuance of this Act, to pay all expenses incurred in the maintenance of such child at school.

"Provided that no child who on being brought before the justices is proved to have been previously convicted of felony, shall be deemed to be within the provisions of this Act."

The Act provides also as follows :—

For *certifying* the industrial school by Her Majesty's Secretary of State for the Home Department. For the inspection of the school by a Government official. For children to be allowed to lodge with parent or elsewhere. For the removal and maintenance of the child. For punishing children who abscond. For the discharge of the child by justices of the county if suitable provision is made for it. There are various other points which the Act provides for, but which need not here be noticed.

Miss Carpenter observes on these subjects :—

"The value of these schools is very great, and as far as they have become known, they are much appreciated by the public. No stigma is attached to any boy who has been in an industrial school, and as the inmates are less hardened, greater liberty can be allowed them, and they can more easily find their place in society than from reformatories. They remove the child who was in danger of becoming criminal, before he has actually joined the ranks of crime, before he knows the interior of a prison, which may now remain an object of awe and dread to him. Unfortunately, however, these schools have not yet become general; being regarded by the Government as experimental, the Act extended only to January 1st 1867; a circumstance which imposed a natural obstacle to the establishment of institutions which might eventually be abandoned. We trust, however, that of this there is no danger, for as the class of children diminishes who have undergone imprisonment, the reformatories may be diminished in number, and reserved for the more hardened and the older offenders, as they receive young persons up to the age of sixteen. Many children are now sent to reformatories who might have been placed in industrial schools without a prison brand, simply because no certified industrial school was at hand to receive them.

"If we compare reformatory and certified industrial schools it is evident that the latter should be preferred whenever a child is admissible under the conditions of the Act, supposing, of course, that both are under equally good management; because he does not receive any criminal stigma, and will be more quickly prepared to enter the world. The expense to the public is also much greater in the case of a reformatory than of an industrial school. Both reformatory and industrial schools having thus been shown to answer the purpose intended, wherever they have been efficiently conducted on sound principles, and the Government having made all the enactments required for their maintenance, it is a matter of surprise and sorrow that so little progress has yet been made in arresting the frequent imprisonments of young children, which were shown in a former chapter to be the sure means of perpetuating a succession of convicts. Abundant testimony was brought forward, and much more might have been adduced, to prove that, however well regulated a jail may be, it is not from its very nature *a fit place for a child*, a young person of immature age; that it *does not produce the intended effect* of deterring from crime; that committal to one *stamps a child for life*; that it is therefore an expensive procedure. Surely to affix a stigma which can never be effaced on a young child who has not a legal right to control his own actions, is an enormous inconsistency, and a cruel injustice. The law of England carefully guards parental right, and to a certain extent enforces parental responsibility. The child of 14 has no right, however much he may deem it for his future advantage in life without the consent of his father, to apprentice himself to a trade, whereby he may secure for himself the power of obtaining an honest living.

"If he may not do what is right, because he is under the responsibility of his father, why is he to be punished because his father has so neglected his duty, as to allow him to do what is wrong. In some places we have heard that parents are punished, if through their neglect their children are injurious to society; *and so they ought to be*. The ordinary treatment of children is never the same as that of adults; we do not expect from a boy or girl the knowledge of life, the wisdom which can be alone derived from experience, the power of guiding his actions, the development of conscience, or the physical condition of a man or woman. The vagaries of boys are never looked upon in the upper classes with a serious eye; and if they commit actions which are criminal, parental correction is administered; and yet a contrary course is pursued as soon as a young boy of the lowest class of society proves by his conduct that he is ignorant of his duty, deficient in principle, and totally unfit to guide himself. *There* the massive prison walls are opened to receive him, ponderous keys are turned on him, an officer waits on him, he has rights he can assert, he is treated as a man.

• "What then remains for the Government to do in order to give full effect to present enactments, and to arrest the progress of juvenile crime? The real effect of reformatories cannot be proved while these constant imprisonments of children continue, nor is it just to them that they should be so treated in their immature state. The experience of the last ten years has shown that it cannot be expected from magistrates, when children are brought before them, to weigh all the varied

arguments which may be adduced respecting their disposal; some magistrates may be disposed too readily to send children to reformatory and industrial schools; others may not have attended to the subject and be too unwilling to do so. It is a short and ready way to send a boy to prison, and this is therefore often done without consideration of the future consequences. The next time he appears before the bench, the boy receives another short sentence, and thus the same course is repeated which has so long been deprecated; he may not be remembered and other magistrates may be sitting. There can be no uniform system adopted without legal enactments.

"The law at present leaves it in the power of magistrates to deliver over children to their parents for chastisement, or to caution and discharge them; a child may also be remanded for further consideration of his case and examination of his circumstances. He should however under no circumstances be sent to a prison, if under 14, except as a preliminary to a reformatory. If the child has been guilty of some misdemeanour which indeed requires correction, but which does not imply serious wickedness, let him be handed over, as would be the case in the higher classes, to parental chastisement, the father being warned that a repetition of such misdemeanour, or continued neglect of his child, will be followed with serious consequences. If the child has been previously brought before the magistrate, or is proved to be habitually in a state of incipient crime, coming under the provisions of the Industrial Schools' Act, let him be sentenced to one, the parent being compelled to pay the utmost his means will allow towards his maintenance. The child thereby will have no taint of crime affixed to him, and after good training for a few years will probably come out a hard working boy, easily finding employment. Should the case be still more serious, the reformatories can receive him; the character obtained there will decide his future prospects in life. The expense of the reformatory will be far less to the Government than a continued career of crime terminating in penal servitude. A system of this kind steadily pursued would throw the responsibility of the child (where it ought to be) upon the parents; and is entirely in accordance with the recommendations of the 15th and 16th resolutions of the select committee of 1853."

The author of the "Old Bailey Experiences" observes:—

"The mistaken views of all in power as to the effect of punishment on juvenile offenders is one which occasions much increase of crime. In May last I was at the Clerkenwell Session House, when the Chairman passed sentence on a boy for seven years' transportation, addressing him somewhat as follows:—'Prisoner, what can we do with you? we have done everything to reclaim you; we have imprisoned you over and over again, and given you frequent floggings; yet all is no use: the sentence of the court is that you be transported for seven years'. The Chairman then turned round to his brother magistrates and said, 'you see it could not be for want he stole; see how well clothed he is?' forgetting that the clothes were procured by theft, and that so far from everything having been done to reclaim him, on the contrary every thing had been done to destroy him—when he first fell into crime you sent him to live, to eat and drink, and to sleep, among old and desperate offenders who taught him to spurn any advice but theirs, which he naturally adopted, being most with them; they told him the more punishment he endured the better man he would make—you ordered him to be tied up and lashed in a manner which even brutes are protected

from, and this you do from time to time till his brutalization is completed; all the better and latent good feelings totally obliterated;—and then call this doing every thing to reclaim him. If there had been any efforts to reclaim him he would have been kept from vitiating companions; he would have received instruction, and the mind set to work in reading useful and instructive works; he would have been employed in some labor calculated to produce *health and vigor of body*; not rendered desperate by despair, after he left prison, of finding any home but in the streets, or any employment but in stealing."

It is necessary to remark that whipping in England is now under strict rules, and cannot approach even to brutality, as apparently was the case in the time our author wrote, namely 1833.

CHAPTER V.

REFORMATORY SYSTEM FOR JUVENILES AT METTRAY IN FRANCE.

This sketch of reformatory measures for the treatment of juvenile offenders would be incomplete without some account of the celebrated French Juvenile Reformatory at Mettray, near Tours in Touraine. I visited Mettray in 1863, and fully satisfied myself that many of its principles and much of its practice may be applied with equal advantages to the treatment of juvenile offenders in India.

Mettray was founded in 1839 by M. Demetz and M. de Courteilles. It was opened in 1840, and therefore, speaking to us with an experience of 26 years, may justly demand for its precepts and its practice the most serious consideration of all who are interested in this important subject.

The accounts of Mettray by the Recorder of Birmingham, Mr. Hill, and by Rosamond and Florence Hill, are so exact and impartial, and justly carry such weight, that I shall better serve the object I have in view by giving extracts from these authorities, than by merely giving my own observations. The views of the founders, M. Demetz and M. de Courteilles, on certain important points are also contained in those accounts, and will be found in these extracts.

The Recorder of Birmingham, in a letter addressed to C. B. Adderley, Esquire, M. P., observes:—

" Dear Sir,

" The position which you hold in Parliament, and in the country, as a leader in the reformatory movement, has very naturally induced many correspondents to apply to you for information to guide them in the establishment of reformatory schools. The object of my present letter is to submit to your consideration more fully than I have hitherto done, the great advantage which would arise from every person who is called upon to act an important part in such an enterprise, repairing to Mettray, not merely for a visit of an hour or two, but with the intention of studying the subject of his inquiries fully and completely and on the spot, at which he will find in successful action almost every expedient hitherto devised to secure genuine and permanent reformation.

" In the surviving founder, M. Demetz, he will discover a sufficient explanation of the high excellence which Mettray has attained. He can scarcely be long in the society of that extraordinary person without seeing that he is urged on by a philanthropy so intense as to have become a passion, which might be as injurious as it is beneficial were it not under the dominion of the soundest judgment.

" They are subdued almost without a conflict, and the heart once softened and laid open to good impressions, the great work, though as yet merely commenced, is begun under the only conditions which can lead to a happy result. This philanthropy which exhibits itself in every variety of ramification, and what is better makes itself felt through every hour of the day, must become the subject of careful reflection by the inquirer. Let him ask himself what are his own motives in his undertaking. Is he moved to exertion simply 'by the dictates of reason? does he think only of protecting the upper classes from annoyance, and their pockets from taxation, by reforming young offenders; or does his heart yearn towards the poor out-casts themselves; the little prodigals who, though sufficiently disposed to 'waste their substance with riotous living,' if they had any to waste, are far better acquainted with the second vicissitude of the parable—the feeding on 'the husks which the swine did eat.' Does he earnestly desire to snatch them from perdition and to restore them to the fold?

" Doubtless all that he and others are doing may be defended on grounds of a wise and enlarged policy. But such considerations have not vitality enough to carry the reformatory laborer through his toils. Unless the heart unite with the head in the task no progress will be made. No handling of the rudder however skilful will set the ship in motion; without an attachment to the pursuit which it is not extravagant to call passionate, the task will soon be abandoned in despair; for difficulties and discouragements are as abundant as the advocates of the old system and the opponents of the new could desire. But minds of the right stamp are never discouraged by difficulties; obstacles are stimulants, such a spirit was the good Vicomte de Bretignerès de Courteilles, the colleague of M. Demetz, and the donor of the land on which Mettray was founded. His remains lie in its burial-ground, to which they have given a second consecration. His enduring ardour breathes through his epitaph, written by his own hand and attested by every act of his life: —

'J'ai voulu vivre mourir et recussusciter avec, eux.'

"Of this venerable man may we not say, as the Apostle wrote of Abel, 'he being dead yet speaketh,' for his words are not mere dumb and graven letters but have a voice to make themselves heard and felt in the most callous heart. It is impossible to over-rate the blessing of having had such men as De Courteilles and Demetz to precede us. They have raised our standard of possibilities; and their noble institution remains always ready to testify to the wondrous power of reformatory action under able direction, when urged forward with the glowing zeal and the indomitable perseverance which they brought to the conflict.

"By the 66th article of the *Codé Napoleon*, children in France, under 15 years of age, who are found guilty of an offence, may be acquitted as having acted '*sans discernement*,' in which case they are liable to detention in prison for a certain number of years, according to the sentence of the magistrate before whom they are tried. He has however, the option of treating them as adult offenders, in which case they undergo conviction. This however, happens comparatively rarely; but until the establishment of reformatory schools, the child derived little or no benefit from his privilege of acquittal. He was still exposed, for a period often of many years, to the injurious influences of a prison, where he was frequently associated with hardened felons. It was to give life and action then to this dead letter that M. Demetz resolved to establish the agricultural colony of Mettray. Our aim, (say the founders) was to rescue young offenders from the influence of a prison life, and to re-place the walls with which they had been surrounded by liberty and labor in the open air; we proposed by persuasive influence, by justice, kindness accompanied by strict discipline, to reclaim lads who from their infancy upwards had never received any moral training, and had been subjected to no other restraint than that of brute force; we proposed in short, to turn ignorant and dangerous vagrant lads into good, industrious, and useful members of society. Such a problem could not be solved by ordinary means.

"Holland and Belgium had tried the experiment of endeavouring to render barren lands profitable, and to reform criminals in one enterprise; that is to say, they attempted the most difficult branch of agriculture with the rudest tools, and the most difficult species of moral culture amidst impediments artificially augmented. The sagacity of M. M. Demetz and Courteilles saved them from repeating this two-fold error. They say 'this idea of reclaiming the soil by the aid of arms hitherto useless employed in colonies, we acknowledge to be very engaging, and at first sight to appear very just; the culture of a stubborn soil by such means presents an appropriate penal picture; it makes men useful whose lives have hitherto inflicted only trouble or danger on the state, and on them it is but reasonable to impose the severest labors. We should have nothing to oppose to this theory if the question merely concerned men deserving severe punishment, and if the colonies of which we speak had their punishment alone in view; but it seems to be forgotten that the principal object of these institutions is the moral transformation of the unhappy beings whom they receive.

"The lads were delighted with the harvest work and thoroughly enjoyed getting it in; 'just look here' exclaimed

one of them, one day when he was raising a huge sheaf of corn on his shoulders, having never before doubtless gathered more than a few scattered ears, 'oh! if my mother had this.' Children should be employed on fertile soil where they can soon behold the effects of their labor. Their interest in their occupation can only be awakened by speedy results, for even the morrow seems to their minds afar off. They witness with delight the young corn sprout from the seed they have themselves sown, and the vegetables which they have planted growing higher from day to day, while the spectacle of an abundant harvest attaches them to the soil they cultivate.

"The first step when the land had been obtained was to establish that which M. Demetz, in his speech at Bristol declared to be 'the most important feature of the institution'; so important, indeed that if that were to be given up, Mettray itself must cease to exist, we mean the 'Ecole Préparatoire' or school for officials.

"To train men and turn them from evil to good is a charge not to be entrusted to the first assistants who may offer themselves. This important ministry requires disciplined minds, sincere self-devotion, and morals above suspicion.

Mr. Hill in his "charge" in 1848 said:—

"Excellent indeed has been the selection and training of these young persons. The founders have breathed their own earnest benevolence into the hearts of their co-adjutors. Seldom have I felt so deeply interested as in the hours I spent with these amiable and intelligent young men. Their devotion to their employment, their perfect knowledge of all the principles on which the institution is founded, and of the best means for carrying these principles into effect; their enthusiastic attachment to the generous men to whom France and the world owe this noble establishment; the kindness which they evinced in their demeanour towards their wards, and grateful spirit in which their notice of these poor lads was received, left me no room to doubt that I was among realities, not surrounded by mere shows and forms; and that the execution was worthy of the plan and of the Christian spirit which had given it birth.

"The founders thus write on this point:—

"In order to succeed in detaining our first 'colons' among us, and in attaching them to our institution, we began by founding a school for teachers which should supply us with devoted and efficient officers, and we strove to imbue them with the spirit by which we were animated, that they might in their turn communicate it to the rest, and afford them a good example.

"On the 28th July we opened our Ecole Préparatoire with 23 pupils, from whom we have already selected several individuals now actively employed as officers in our institution.

"Admission to the school is gratuitous; thus the Directors have the power of selecting as pupils those individuals who appear most likely to suit their purpose. They are invariably chosen from respectable families, but often from such as have met with reverses in fortune, and to whom consequently the education and maintenance thus obtained is a great boon. If a pupil is found to be unfitted for the vocation of teacher he is dismissed; endeavours however being made if his conduct is not in fault to provide for him elsewhere. Some leave of their own accord, and no attempt is ever made to detain either pupil or officer after they have expressed a wish to depart.

The class of children admitted to Mettray is thus described by the founders:—

"We learn from the information we have been able to procure, and from the answers of the children themselves to the questions we address to them on entrance, that a large proportion have been accustomed to live by begging; that they have been badly clothed, ill-fed, and have received no care from their parents, who made a profit out of the wretched appearance of their children and often employed them as instruments of theft. Though declaring that those children have acted '*sans discernement*,' the law has nevertheless treated them with great severity; for it may justly be said that they acted compulsorily, since they did but yield to the imperious dictates of hunger: we must admit however that there are among them some who are most precociously wicked, and who if not dealt with in time would infallibly become deeply criminal. At Mettray a large number of our children are foundlings; it is impossible to form an idea of the neglected state of these poor creatures, whose birth is their only offence.

"Many of them have done nothing from quite infancy but watch cattle, and their brutalised condition is often on a level with that of the animals among whom they have lived; indeed, we have had boys who seemed to have acquired their most degraded attributes. Thus if they quarrelled with a companion, they would after regarding him side-ways, rush against him and overturn him by butting at his chest with their heads, all done with such inconceivable rapidity that their adversary had no time to save himself from the blow."

The treatment to which the colons are subjected is thus described by the founders:—

"It was absolutely necessary that we should be able to show to those who were apprehensive of evil effects resulting to themselves from the assemblage of so many criminal lads in their vicinity, that even such a band might be well disciplined and harmless, and we have succeeded in dissipating all alarm and ill-will, and in gaining the confidence of our neighbours.

"Deeply convinced of the importance of first impressions, we make it a point to fetch our lads ourselves from prison.

"When engagements deprive us of the pleasure of going ourselves to fetch new 'colons,' and of witnessing the first hope of liberty kindle in their breasts, we depute benevolent individuals whom we can entirely trust to supply our place.

"Our first care on the arrival of each is to study his character, in order to ascertain the treatment most suitable to him. If we would operate successfully on the individual, we must convince him that he has been sent to the colony not only for his present good but for his future welfare. He must be made to understand that if the work to which he is set here is more laborious than that in which he was employed in prison, its purpose is to develop his physical powers while promoting his moral improvement. Finally, it is necessary to awaken in his heart those principles of religion and virtue without which no reformation is possible.

"To effect a complete reformation it was required to restore to this neglected class the habits and affections of the family circle so dear to man, and which supply the firmest bonds by which society is held together. This has been accomplished by dividing

the colony into sections of forty boys, in each of which superintendents, called respectively the '*chef de famille*' and the elder brother, exercise an authority maintained by kindness and good counsel. By placing the members of each of these sections or families in a position to provide for all their wants themselves, to build partly with their own hands their common dwelling house; and to cultivate the field and the garden belonging to it, we created for them the associations of home, and a love for their own fireside, and familiarized them with the feelings and the duties which arise there. It was we believe impossible to discover a better means for raising these unhappy beings, the offspring of vice, in the eyes of the world, and in their own, and of converting them into useful members of society. After describing the dwelling house for a family, Mr. Demetz proceeds:—Two '*contre-maitres*' (masters in the position of foreman) keep watch at night in each dormitory, taking the duty alternately till morning. Each house thus accommodates 40 children, divided into two sections forming one family, presided over by a *chef de famille*, aided by two '*contre-maitres*.' In addition to these a colon is chosen *monthly* in each section who with the title of elder brother assists the superintendents in the management of the house-hold.

"On Sunday an account is given before the assembled colony of the conduct of each family, and the work it has accomplished during the past week, and particulars respecting its individual members are related. Every boy who has deserved well receives encouragement; every family whose conduct has been satisfactory receives a reward. This emulation among the different families has always had a good effect. It was not however, sufficient, and we thought it might be possible to excite this spirit of rivalry in good conduct to still further results, by fostering it not only in individuals but in the various families, so that it should animate the whole colony.—With this view we have established a kind of 'prize of honor' (*pie d'honneur*) to be granted to the family which has incurred no punishment during the past week; it consists in the privilege of carrying the national flag upon which the simple legend has been inscribed *Honneur a la Famille*.

"During their military exercises the family which has earned this distinction marches at the head of the colony, whose standard bearer it has become."

As the military discipline of this colony has been animadverted on by some writers, I give the following extracts:—Lord Leigh says:—

"With regard to the almost military discipline and order with which the children go through their movements before and after work or meals. I consider that by it a great saving of time is made, and five or ten minutes upon every change of movement are saved, which would be otherwise lost in collecting and adjusting stragglers, both young and old."

Mr. Hall writes:—

"Another objection, if it deserves to be called an objection, is that the system turns so much on military discipline. Assume for a moment that it is so; what then? Until you find me some other

system as effectual as this for the purpose we have in view, you must not ask me to yield to any abstract dislike of every thing connected with the profession of a soldier. But the objection is as unfounded in fact as it is trivial in its scope; the signals are given by the sound of the trumpet, and the colonists march in double file to and from their posts, and they salute by raising the hand to the cap as soldiers do; that is the sum total of all that can be said to partake of military discipline; the bell or gong if more musical to pacific ears might be substituted for the trumpet; the respectful salute is not essential, though I should be sorry to see it dispensed with; the walking by twos with measured step may be given up, though the boys would not thank you for it, and you will not easily invent so effectual an arrangement for seeing at a glance whether all is going on right.

"We have found means of employing a part of Sunday, a day so difficult to get through in penitentiaries and prisons, in such a manner that while resting from labor, our lads are saved from idleness.

"Two hours of the day are spent in gymnastic exercises. Children possess an exuberance of animal spirits, which they must have the means of getting rid of, no matter how, and often this necessity has more to do with the blow they give each other than any malicious feeling. Everything which tends to fatigue them helps to keep away evil thoughts, and we take care therefore that their games shall necessitate violent exercise, that they may be tired by their play as well as by their work; thus at night they fall asleep the moment they lie down; and their slumber is unbroken until it is time to rise—(they rise at 5 A. M., all the year round).

The notice on the system of "families" in a report on agricultural colonies, is worthy of entry:—

"Division into families, it appears, should be the fundamental principle of every penal and reformatory colony; and we are happy to see that this conviction which takes stronger hold on our judgment from day to day, is making increased progress among our public writers."

In December 1849, M. Corne, speaking in the name of a commission appointed by the legislative assembly, "looked on the division of the children into small groups as the most certain element of their moral regeneration." Those men, in the different states of Europe, who have given themselves to the study of these questions all profess the same opinion.

"Division into families renders superintendence at once more easy, more active, and more zealous; more easy because it extends over but a small number; more active, because it makes all the responsibility rest on the head of one person only, whose authority is well defined, and whose duties are exactly prescribed; more zealous because it creates in the minds of the superintendents feelings of sympathy and benevolence, under the influence of this

responsibility, and of a life spent in common with their charge. The effect of the division into families is not less salutary upon the young colonists, the authority exercised over them being neither imperious, nor oppressive, they become attached on their part to the master who loves them, and whom they learn to regard as a confidential friend; they yield themselves more readily to conviction, and while discipline loses none of its vigour, education finds in this *mutual affection* a lever of *incalculable power*.

"An agricultural master superintends the cultivation of the soil, besides giving a course of lessons on this subject suited to the capacity of the lads. Each agricultural division consists of twelve colons and a sub-agricultural master, who is either a good gardener, vine-dresser, field laborer, or hedger and ditcher, and who teaches the lads under his care the best methods of performing the work, and handling their tools. When the weather is bad the colons plait straw for making their hats, and in future when our sheds are finished (this was in 1841) the boys will under their shelter break stones for the roads; our intention being to make road-menders, and even stone-masons of some of them. A great number are employed during the season in picking mulberry leaves for the support of silk worms; we are rapidly increasing this branch of industry, to which our circumstances promise high success.

"The colons spend only two hours and a half per day in the school-room, a period which is as necessary for bodily rest as for mental instruction: they are taught writing and arithmetic; the authorised system of weights and measures, linear drawing, and singing, which latter is very efficacious in promoting discipline and moral improvement, and whose favorable influence on very degraded natures we have already had opportunities for observing.

"Field labor, besides its importance in a pecuniary point of view, affords healthful exercise to the body, while it sufficiently occupies the mind to banish evil thoughts which *idleness is sure to induce*; it affords another advantage in making rest absolutely necessary to the peasant at the very hour that his brethren who dwell in towns are entering into those amusements and dissipations which tend to enervate and demoralize the partaker.

"To stimulate the enterprising and active spirits of our laborers, we allow them to compete in each class, among themselves; the trial however, being made on the *soil* instead of on paper. Every month the boys assign their respective places to each under the superintendence of their masters, and once in three months these places are announced in the presence of the whole colony, when three rewards are granted to the three best workers in each class."

Regarding singing, M. Demetz observes:—

"We find that very great advantages are attached to this pursuit. The singing of our boys promotes good order, prevents conversation among them while moving from place to place, fixes good thoughts and good words in their memory, and attaches them to the institution where they have first felt their happy influences. A knowledge of instrumental music ensures them good pay and the prospect of advancement in the army.

"Every individual who has acquired the power of doing *any one useful thing thoroughly* will find opportunities for turning it to account. Success of some kind, and the sympathy of our fellow

creatures are necessary to us all. How many alas, unable to win the approbation of the good, have been driven to seek the applause of the wicked. We cannot make too great an effort to supply useful and noble objects of ambition.

"Side by side with religious teaching and elementary instruction we place *industrial education*; we desire that on leaving Mettray our lads should be able, without undergoing the laborious life of an apprentice under often a very harsh master, to support themselves, and to earn what are usually considered good wages. Two-thirds of the colons are employed in agriculture, the rest are occupied in our workshops, in trades connected with agriculture, or which are required to supply the colony.

REWARDS AND PUNISHMENTS.

"Much greater use is made of rewards than of punishments; of stimulants to do right rather than of deterrents from doing wrong. Among these, are inscription on the tablet of honor, and other distinctions of a similar nature; admission to the band of instrumental music; an extra allowance of food for unusual industry; small sums of money placed in the savings bank to the credit of a 'colon' who distinguishes himself by his excellence in any handicraft, provided his conduct be irreproachable; a portion of which money those lads whose names are on the tablet of honor are permitted to spend in books, writing and drawing materials, musical instruments, &c. &c., or with it to aid indigent relations; the loan or gift of some small object of desire (as the knife promised by M. de Courteilles to colon D.) and above all the privilege of rendering a service to their fellow creatures. Permission to join the Fire Brigade is granted as a high reward; and the same principle is observed in higher concessions."

"I see no reason," says Lord Leigh:—

"Why the feeling of honor, which I believe to be as strong in an English child as in a French one, should not be appealed to with advantage in an English reformatory. Why should we not have the tablet of honor hung up where every one can see it. At Mettray it is believed to afford a most powerful motive to good conduct, and to be unattended by any ill effects. To have his name inscribed there, a 'colon' must have passed three months without punishment: yet the number of names so inscribed increases yearly, and in 1854, amounted to 69 per cent upon the whole school. For the first half of 1855 the result obtained was still more satisfactory, the percentage having then risen to 75. This fact is the more striking when we learn that rigid silence being imposed throughout the hours of labor, a single word spoken in contravention of this rule is followed by certain punishment, causes the name of the offender to be erased from the good conduct list, and prevents its insertion in the list for the next quarter."

M. Demetz observes:—

"Our regulations are severe and strictly observed. In food clothing and bedding, our lads have only what is absolutely necessary; obedience and punctuality in the performance of their duties are rigidly enforced, and the smallest offence is punished. With

all this we have *no walls*, and yet not one of our boys (1842) has ever thought of escaping, not even in coming out of the cell, where many of them have undergone confinement for 10 or 15 days on bread and water diet. It is by convincing them that we are guided in all things by a sense of justice that we acquire so powerful a hold upon our lads. To afford them a proof of this and to furnish ourselves with an additional safeguard, we cause all lesser offenders to be tried before a tribunal consisting of colons selected by us from among those whose names are upon the tablet of honor, reserving to ourselves only the right of mitigating such sentences as we consider too severe. Experience continued (1856) to demonstrate the wisdom of abolishing all physical means of detention at the colony, the effect of which is to make the lads feel they are on their honor not to attempt to escape. This is so true that a '*chef*' happening one day to ask one of them who had tried twice over at the risk of his life to escape from prison, why he never thought of running away from the colony, where he had to work much harder, he answered—"It is because there are no walls to Mettray."

"The punishments inflicted in our institutions are:—"

Erasure from the tablet of honor,
Detention within doors,
Compulsory labor,
Bread and water diet,
Imprisonment in a light cell,
do. in a dark cell,

"Before inflicting any of these punishments we have invariably recourse to a preliminary measure, of which the advantage is so great that we cannot pass it unmentioned. If punishment is to produce a *salutary* effect it is *imperative* that its object should submit himself to it unresistingly, and indeed that he should be the first to feel that he has deserved it. To impress this conviction on the culprit's mind it is in the first place necessary that the penalty should be inflicted in a calm and gentle spirit, and dictated by the strictest justice, that power of reason which convinces while it commands, as one of our excellent magistrates has so well said; secondly, that both he who inflicts and he who receives chastisement, should be perfectly cool. It is impossible that these conditions should exist at the moment when a serious offence, naturally exciting indignation, has been committed; and therefore our masters are desired when they have a complaint to make against any boy to send him to the waiting room. This is in fact our '*salle de dépôt*,' but we avoid the use of every term which would recall the prison to the minds of our lads.

"Being sent to the waiting room never prejudices the boy's case, and consequently he goes there willingly. Directly this step has been taken we are informed of it, and we have then plenty of time to refer to his antecedents, and institute an enquiry, if we deem it necessary. During this delay the culprit begins to reflect on what he has done, the master becomes cool, we have time to consider the circumstances of the case, consult together, and when at length we decide the matter, in perfect calmness and thoroughly acquainted with the whole affair, we are sure that justice is administered in a paternal spirit. Of all the punishments which unhappily we are under the necessity of inflicting we must confess that the *cell alone* exercises a *moral influence*; all the rest, such as dry bread, being kept

in on Sunday, &c., have a useful effect only on children under nine years of age, and always irritate older lads. Our officers have been struck with the change that seclusion in the cell has produced in the most obstinate dispositions. Indeed our 'colons' themselves have expressed their opinion of it in very plain terms, and their authority in such a case is not to be despised. 'As for us,' they say, 'we would rather have a whipping, but the cell does us more good.' Since the above was written, though whipping has never been allowed, yet latterly a slight corporal punishment for minor offences has been allowed, namely a blow on the open hand from a small leathern ferule. It is however rarely inflicted on any but the younger children; like other punishments it is never administered except by M. Demetz, or in his absence from home by Mr. Blanchard; never at the moment of offence, and is accompanied by calm admonition. Both assured us that it creates no ill feeling, and that not a murmur against it had ever been heard. It does not involve, as other penalties do, erasure from the tablet of honor, and great care is taken that it shall in no way degrade the recipient.

"It was substituted for the limitation to dry bread, which where the diet is as low as it can be fixed consistently with the health of laboring boys, was found instantly to depress the strength below labor point; especially as punishments, though falling but on a small class are, as regards that class often repeated."

M. Demetz continues:—

"Some persons who thought that separate confinement, as it has been well defined by one of our most distinguished writers, and which has hitherto been very absurdly confounded with solitary confinement, should be thrown aside, now that such success has been attained at Mettray, where the lads are associated together; but this is a very serious error, which it is our duty to correct. *Separate* confinement instead of being opposed to our system is, in perfect harmony with it, and is in our opinion its indispensable complement.

In the United States children before being received into institutions analogous to ours are subjected to a shorter or longer term of separate confinement; they lay aside in the cell the turbulent spirit they displayed outside, and silence and reflection prepare them for moral and religious instruction, and for the adoption of a new course of life.

"Independently however of this wholesome influence, separate confinement is necessary also as a means of restraint. The course of treatment pursued at an agricultural colony does not admit of sufficient severity to intimidate undisciplined dispositions, some of which retain their vicious propensities, unless the fear of being sent back to prison can be made a wholesome influence over them. And again, the deprivation of liberty, which is part of the punitive power of imprisonment, cannot exist with the kind of employment pursued at a reformatory school. If then it is desired that the operation of the law should not be illusory, and that those likely to fall within her grasp should not hope to escape with impunity; if above all, our threat of relegation to prison is not to be an empty one, it is indispensable that the colons *before* they come to us should have experienced confinement *there* in all its harshness and severity.

“Many of the boys who come to us direct from ordinary jails where there is *no regular labor*, and where the prisoners, especially if children, do almost what they please, ask to be sent back. In very cold weather some of them have even regretted the house of correction, where instead of working out of doors exposed to the inclemency of the season, they were placed in well warmed workshops with just a shuttle in their hands. It must be evident how embarrassing such requests are to us, who wish admission to Mettray to be considered as a favor and a reward; though on the other hand, they cannot fail to remove the apprehensions of those individuals who fear that our system is not sufficiently severe. As attempts to escape might destroy the usefulness of our institution, we have classed them among the offences which are punished by relegation to prison; but meanwhile we have sought, and it would appear successfully, to make our lads feel that having been set at liberty as it were on parole, it would be dishonorable on their part to run away from the asylum which has received them.

“Our system of discipline is maintained by severe penalties, and by rewards which we endeavour to render valuable in the eyes of our lads. In the course of the present year we have had recourse to a mode of correction which we trust will be approved by you. Certain cases have arisen in which it appeared to us domestic correction would be insufficient; we desired that our wards should become early aware of the severity they might encounter in that world which they must enter on leaving us, and thus imbibe a salutary dread of its just punishments. Thus, a theft having been committed by one of the colons, we thought it best, upon the above considerations, not to employ our ordinary means of correction; we informed a magistrate of the circumstance, and a policeman was sent who arrested the culprit in the midst of his comrades, just as would have been the case with a dishonest laborer at work on a farm. The accused was forthwith tried in the Court of Justice at Tours, and his sentence was read aloud to his assembled companions. This display of public authority, and the natural operation of the law produced a deep impression, and by means of intimidation has had an excellent effect. But we are desirous to add that, side by side with this inexorable severity, without which obedience could not be enforced among a youthful and restless population such as ours, we neglect no opportunity for encouraging those who respond to our efforts to benefit them; never forgetting that to punish effectively we must also *reward at the right time.*”

The *sanitary* effect of the treatment on the colons is thus noted by M. Demetz:—

“It has been said that experience which teaches us the importance of good conduct, teaches us also the importance of *good health*; certain it is, that the *one exercises a great influence over the other*, and we therefore neglect no means which can help to strengthen the constitution of our lads.

“Thus, throughout the winter, excepting a very few days when the cold was unusually intense, they have worked in a quarry near the colony, clothed in coarse cloth, and their feet having no other covering than their sabots (wooden shoes); the uniform they wear is extremely simple, and so made as to leave their limbs the greatest freedom of action and thus promote their healthy development. Without being very remarkable it is sufficiently peculiar to attract attention to the lads

in case they should run away, for it must never be forgotten that they enjoy perfect liberty; we desired in avoiding every precaution which might recall the prison to their minds, to impress deeply upon them the conviction that at the colony they begin a new life, where force is replaced by persuasion.

"It has been said that the lads have a sickly appearance* and that their food is insufficient, consisting as it does largely of bread and vegetables. It must be recollected, however, that this is the ordinary fare of the French peasantry who rarely taste meat, and that the duty of not placing individuals who have incurred the penalty of the law in a position of greater material comfort than their honest neighbours, is never forgotten at Mettray.

"The rate of mortality up to 1856 had not exceeded two per cent. It is shown by examining our register that the number of boys admitted into the infirmary diminishes in proportion with the length of their stay at the colony, which proves how much their constitution must be strengthened by their healthful mode of life."

M. Demetz felt the evils of short sentences as keenly as the Directors of reformatory institutions in England and Ireland felt them. He writes:—

"In a word, every youthful offender who is thus thrown prematurely upon the world finds himself under precisely the same condition which caused his fall, and which can scarcely fail to plunge him again into beggary and crime; we have omitted no opportunity during the past eight years of pointing out this miserable and injurious operation of the penal code, and of urging the minister of justice and the members of both chambers, to introduce an amendment more in accordance with the spirit of this article; it should be framed to provide for the education in an appropriate institution, until they have attained their twentieth year, of all children committed under the age of 16 and detained by virtue of article 66."

M. Demetz has arranged for the employment of his colons when they leave the colony through the agency of neighbouring residents, some of whom take on themselves this special duty, and are called patrons. In his reports he lays great stress on the previous treatment of colons in prisons before they come to him, being *severe*. He says:—

"We never should obtain our end unless the treatment in prison was *harsh* enough to create a dread of being sent back there; or in one word, if separate confinement were not *invariably* the probation through which every colon must pass before coming to us."

It is necessary to notice that, under sections 375 and 376 of the civil code, children can be detained at Mettray at the request of the parents; this system is however no part of the original aim and object of Mettray, and the con-

* Certainly not in 1863 when I saw them.

nection with Mettray is I believe generally considered to be a measure of doubtful value.

"The object of the directors throughout is as it ought to be of every system for the treatment of criminals, to prepare their wards for the life which awaits them on their return to the world; the making them good colons being an incidental part of the process. The change however from the colony to employment under a private master, notwithstanding all the care which is taken at Mettray to avoid unnecessary coercion, is found to be too great to be made *at once* without danger to the habits of the colon, and M. Demetz has consequently been led to form a small colony at Orfrasière, some five or six leagues from the parent institution, where are 25 colons whose term of detention has nearly expired, who have distinguished themselves by good conduct, and who there enjoy more liberty than at Mettray, though less than if placed out in the world."

I conclude this brief sketch of Mettray by the following extracts :—

By M. Demetz :—

"Every child and every man too has a good side to his character by which he may be approached, and through which his feelings may be touched and softened; and if only this be carefully studied and means earnestly sought by which the master may gain an influence over him, assuredly they will be found if the appeal be made from heart to heart."

By M. Duchetel, Minister of the Interior :—

"It is a grand and touching spectacle to behold those lads, trained to order and to labor, strengthened and purified by the culture of the soil, and by the spiritual care they receive, and yet restrained by a discipline strict though beneficent in accordance with the origin and aim of the institution. Morally lost while yet in childhood, through the neglect of their parents and the contaminating example of vice, our prisons in the old state of things would have left the greater part of them sunk in crime to the end of their lives. But you convert them into honest and industrious laborers, and through your exertions society no longer regards them as enemies to be pursued and punished, but as instruments useful to the welfare of all."

By Lord Brougham, vide speech in House of Lords in 1847 :—

"To show the effect of these experiments in reformatory treatment he would take the French institution of Mettray as affording more details. Besides this one there had been twelve others of a similar character established in France, which were founded in consequence of the great success that attended the original institution. He avowed that if he were animated with feelings of rivalry towards France; if he were animated by those national feelings of rivalry which pervaded the bosoms of Englishmen; those national feelings would lead him more to

envy the French people for the erection and usefulness of such institutions than for any glory they might have derived from their Algerino colonies, from their Spanish marriages, or even from all that redounded to the glory of Napoleon. He envied them for what they had, and which this country wanted, those noble and useful institutions."

It is necessary to remark regarding the *class* of offenders subjected to reformatory treatment at Mettray, that youths who have committed murder and received, therefore, probably sentences for life, are *not* received here. Moreover, so far as I could learn by personal enquiry, the boys are selected from prisons as being the best boys, and as generally belonging to the *agricultural* class, though the Paris "*gamin*" is to be found amongst the "colons."

The Recorder of Birmingham, Mr. Hill, in his letter to Mr. Adderley, M. P., which I have already quoted, observes:—

"Every variety of mind is wrought upon by every variety of good motive, none of them violent in their action, but none of them for a moment relaxing their influence. Thus the habits of an idle and vagabond life are gradually changed into those of settled industry, and an amount of labor (profitable labor be it remembered) is thus got out of the lads which would be yielded to no amount of severity; labor, too, full of pleasant associations, and gradually producing habits which secure the crowning result—*permanent* reformation. Now this permanent reformation as regards the proportion of youths attaining it, rises to a height far beyond what, myself, or as I believe, any one of us ever dreamed of in our most sanguine moments; ninety per cent of the "*colonie*" become honest and useful members of society. And with regard to the ten per cent, their conduct is generally much better than could reasonably have been expected, but for the effects produced upon them at Mettray. No Mahomedan believes more devoutly in the efficiency of a pilgrimage to Mecca than I do in one to Mettray."

CHAPTER VI.

REFORMATORY MEASURES APPLICABLE TO OFFENDERS IN INDIA.

This review of Mettray completes one portion of the task which I proposed to myself, and the sketch of reformatory principles and practice, as in force in Europe. I need not attempt to give any account of the many similar institutions in the United Kingdom or on the continent. I have briefly delineated the main features of the two institutions which offer to us in practice the best illustration of

those principles as applied to adults in Ireland and juveniles in France. I have given quotations from the writings and sayings of many eminent men; their collective authority justly carries with it the greatest weight; and it is indeed worthy of note how men of all ranks in society and of all countries have testified to the necessity and the excellence of these reformatory measures.

The many important measures connected with the treatment of prisoners have also been briefly noticed, so as to show in each what is considered in Europe to be the best mode of procedure. It now remains to offer a few suggestions as to the application of these principles to India.

I trust that the authority of Europe may be felt sufficient to prove that the principles described may not safely or rightly be treated in India with indifference; how far our practice should assimilate to that of Europe must depend on local circumstances; no servile imitation is necessary for the practical recognition of the great principles I seek to see introduced.

I have given the sayings and writings of many eminent men on the subject of the duty of the State: but I add to them a few remarks by Mr. Nan Burghen, as quoted by Miss Carpenter:—

"The State or society being obliged to use compulsory privation of the liberty of natural action as the chief means of penal retribution, repression and penal intimidation, thereby *contracts* towards those who are the subjects of it an absolute obligation to provide, not only for their physical existence, but to furnish them the means of supplying the wants of their intellectual and moral nature, which their dependant condition prevents them from procuring for themselves.

"The obligation of the State which is here discussed is not founded on the moral duty of society to exercise collectively through its Government the christian virtue of charity, of brotherly love, or in other terms of philanthropy more or less christian. Nor does the duty of which we are speaking spring *directly* from the interests of society in its own preservation, which should lead the State to consider as an advantage the moral reform of individuals dangerous to its peace; with whom it must, in proportion as other more inhuman means of repression fail, always fill its prisons in greater number, to release them, after a fixed time, more corrupt and more furious, to be the terror of the population. But this obligation arises in the first place as a positive and absolute right, belonging to those towards whom retributive justice is

exercised, from the very nature of the right of punishing which political power is called upon to exercise. For this right, embracing the different motives of penal repression, retribution, as well as the intimidation and protection of society, has its true basis only in that law of moral order founded by the Supreme Legislator, and impressed in the nature of man created after His own image, ~~that~~ suffering must be the necessary and inevitable consequence of evil, in order to change this evil into good. 'We suffer,' says Vinet, because God has made punishment the inevitable companion of sin; we suffer, because suffering is the needful road to lead us to Him who cleanseth from sin.'

"It is only under this aspect that the right of punishment, placed on its true moral basis, loses the odious character of simple vengeance or of egotistic violence, which is exercised by most only to secure their own protection.

"The distinction here established is very important. It gives at once a sure foundation to the absolute obligation which rests on the State, not only to attend to the moral wants of the prisoners, but to make their very punishment *conduce, as it ought to do, to the amendment* of their moral life; an obligation from which it cannot withdraw without abusing the right of punishment which belongs to it; in order to make it degenerate, by losing its moral character of justice, which is at the same time retributive and restorative, into a simple act of violence, exercised by the strongest against the weak."

I have before quoted the Attorney General of Ireland, the Right Honorable Thomas O'Hagan, but I must again note two axioms prescribed by him:—

"That for all practical purposes, human law should deal with crime not to avenge, but to prevent and to reform.

"That merely vindictive and repressive action defeats its own purpose, and increases the mischief it would do away."

Now in this province I venture to assert, and I think the same may be said as regards the rest of India, that our prison discipline is not guided by reformatory principles such as I have described, and indeed cannot be until the State proceeds to legislate on the subject.

I urge then that in India, the legislature shall, following the procedure of Great Britain, not only recognize the principle of allowing portions of certain sentences to be mitigated as regards duration and severity, if the prisoners by their industry and good conduct merit such a privilege being granted to them; but shall fix by a legislative enactment the greatest amount of mitigation which in each sentence may under the above conditions be allowed.

This principle once recognized and enacted, the great mainspring of all good conduct and successful reformatory

progress in prisoners, namely hope, can be at once allowed a sufficiently free and fitting play.

I consider it most important that in all such sentences there should be fixed by the law a *certain amount of absolute punishment* known to the judge who passes the sentence, and to the public which is seriously affected by the proper execution thereof. This fixed amount should, as in Ireland, be capable of only slight amelioration as regards its nature, and *not at all* as regards its *duration*. The possible amount of amelioration as regards its *nature* should be known to the judge and to the public, and should be dependent on certain principles which may not be altered by jail officials. I think any treatment of prisoners which admits the possibility of sentences being as a rule seriously lessened in severity or duration by the recommendation or the opinion of jail officers, is most strongly to be deprecated. So far as is possible, the judge and the public should know what the sentence implies, and that its terms will be carried out. In England I observe that sentences to penal servitude are now fixed at five years and upwards. Also that in Ireland always, and in England very generally, it is assumed that persons sentenced to five years and upwards of penal servitude are *habitual* criminals and not *casuals*. Applying this principle to India, I urge that by a legislative enactment each sentence to penal servitude for terminable periods of five years and upwards, shall contain a certain period fixed by the law, within which period the prisoner may, by the merits of his industry and good conduct, obtain such an amelioration of his sentence as may under certain known and established rules be deemed fitting.

For instance, taking the procedure of the United Kingdom as our guide, in a sentence of five years penal servitude, three years and six months must be passed in absolute imprisonment; six months may, if the prisoner merits it, be passed under intermediate treatment, and one year under a ticket of leave,—the conditions of which, as in Ireland, should be rigidly enforced, and the prisoner sent back to prison under his original sentence if he infringes them.

I need not detail here the conditions prescribed in England as regards each sentence for five years and upwards; they have already been given, but I venture to suggest that the divisions of each sentence as carried out in the United Kingdom may well be adopted in this country, not only as regards duration, but as regards severity.

Before leaving this first step in reformatory measures, namely the legislative action regarding all sentences to penal servitude for five years and upwards, it is necessary that I should notice briefly the two great divisions into which the portion of each sentence, within which the prisoner may by his own exertions lessen its severity and duration, is divided.

The divisions are :—

- I. The intermediate stage.
- II. Liberty on ticket of leave.

Regarding the first, I am aware of no insurmountable difficulties existing in this province or in India which prevent the principle being efficiently carried out. For all prisoners of the *agricultural* and *laboring* class it would not be impossible to employ them with great advantage to the State, and to themselves, on our public works; if these do not offer sufficient employment for such men, which I cannot credit, it would not be at all impossible or impractical to establish agricultural settlements similar to “Lusk” in Ireland, and bring under cultivation some of our many thousand acres of good land now left waste,—not because it is bad, but because capital and labor are needed to bring it into cultivation.

For all prisoners of the *manufacturing* classes, who work solely at trades and not at out-of-door work, it would not be impossible to erect and work advantageously establishments similar to Smithfield in Ireland, and other institutions, where prisoners in the intermediate stage work under conditions of almost freedom, and can realize by their own labors considerable sums of money for *their own benefit*.

Regarding the second division, the "ticket of leave," I trust the quotations I have given from so many eminent authorities will be accepted as proving that the system is in principle good, and only needs to be properly put into practice. I maintain that in this province the police can perfectly well carry out their part of the duty, and with real benefit to the prisoner; but the remaining part of the treatment must be rigidly carried out by the magisterial department as in Ireland.

I urge that it be carried out exactly as in Ireland, without any modification or alteration. The necessity of these two stages has been so fully proved that I need not again bring forward the proofs already recorded. All experience elsewhere has proved that under no system of reformatory treatment can an habitual prisoner be discharged direct from the absolute imprisonment of an ordinary jail, into society, with impunity to himself or to society. An intermediate stage is absolutely necessary to *test the result* of the reformatory treatment *before* he is *discharged*, and a "ticket of leave" stage is also very necessary to maintain a certain, helping, yet restraining connection with him after he is discharged.

HABITUALS AND CASUALS.

The *second* great step in reformatory measures is I consider that by which *habituals* and *casuals* are subjected to distinct and separate action, both as regards the law and as regards treatment in jails.

The imperative necessity of distinguishing between the habitual and the casual offender, has I think, been fully shown by the quotations I have given. The experience of all Europe is perfectly unanimous on the point.

As a rule the habitual and the casual offender should never meet each other inside our jails; such a meeting is almost equivalent in its results to that in the fable of the lamb and the wolf, for the habitual ere long so corrupts the casual that he does devour him body and soul.

In Ireland, as I have shown, all persons sentenced to five years or more of penal servitude are assumed to be "habituals," and subjected to jail treatment accordingly. I see no reason why we should not follow the same practice, as it seems wise, and as it falls in with the procedure which is in force in this province and I believe generally in India; namely that of central jails for prisoners of long sentences who may be considered habituals, and district jails for prisoners of short sentences who may be considered casuals; by this arrangement the long termed prisoners are of necessity placed in one central jail.

INDIVIDUALIZATION.

The third great measure in reformatory treatment is that of *individualization*. It is an essential, indeed vital, part of all successful treatment, whether applied to the habitual, to the casual, to the adult, or to the boy. I have before given Sir Walter Crofton's forcible remarks on this point, but I am tempted to repeat them in part; he says:—

"Can we not individualize, and seek after that which is good in every person old or young, and foster it, and under the blessing of God bring it to maturity? Do we not know that the bane of the criminal class is *self-indulgence*, *idleness*, and a want of self-restraint. By therefore placing a premium upon *self-negation*, *industry* and *self-restraint*, and making these qualities the grounds, the felt grounds, of the criminal's advancement you afford to him a good and reformatory training."

Now there is really no insurmountable difficulty in attempting this mode of treatment in our jails in India; following the same course as that which is proved to succeed in Ireland with the Irish, and on the continent with its various races; and valuing industry and good conduct by marks;—a system which first produced humanizing effects on the convicts in Norfolk Island whom a cruel discipline had almost reduced to the state of wild beasts. I have stated what seem to me the three first primary steps which I consider may be attempted in India, and which are absolutely necessary in all reformatory measures.

I. The legislative action whereby the principle of hope is granted by the law to the prisoner, under certain condi-

tions, including the intermediate stage and ticket of leave.

II. The dividing all criminals into two classes, habituals and casuals, and treating them as distinct classes both by legislative and reformatory measures.

III. Individualization, whereby the treatment each prisoner is subjected to is exactly noted by the system of "marks," and his advancement towards liberty made clearly to depend on himself.

But I have not noticed the treatment of adult casuals, *i. e.* of persons who are sentenced to not more than four years imprisonment. I have assumed that all persons sentenced to more than four years' imprisonment, that is to five years and upwards, are to be treated as in Ireland as habituals.

Regarding these casuals, I see no reason why the same reformatory principle of "hope" should not be admitted in their treatment; whilst as they are supposed not to be habituals, but to be offenders only for the first time, it ought not to be necessary that they should pass through any "intermediate" stage before being discharged. I am quite aware that until our systems of registration of previous convictions and police surveillance become more perfect it will often happen that "habituals" will be sentenced as "casuals;" but under proper jail arrangements the prisoners should not be able to contaminate each other by intercourse.

It is not necessary to propose any detail of jail discipline for this class (the casuals); each province will adapt its treatment to the races it has to deal with; but I consider all sentences for four years and under should be termed short sentences, in contradistinction to those for five years and upwards, which should be called long sentences; and that we should adopt the experience of Europe and make the treatment during the greater portion of our short sentences and the earlier portion of our long sentences severe, deterrent, and yet reformatory. I have shown how in our jails every man ought to work, and how industry is a reformatory engine of great power. On that safe foundation

SLEEPING CELLS."

may be raised without difficulty in India various systems and yet all beneficial, reformatory and suitable to the races to which they are applied. Those who attempt this work should, amongst other points, recollect, how Sir Walter Crofton treated "idlers," and violently rebellious prisoners; and those cunning, sneaking prisoners often the most incorrigible among many bad ones, who behave very well in prison, but take care to shirk all work, and too often successfully,—pleading their absolute state of physical weakness, and so get themselves appointed to those pleasanter, lighter, and easier duties of the prison, which should always be the reward of industry combined with good conduct.

I must not omit to notice one point connected with jail discipline, which appears to me of very vital importance. It is this, that whatever system of jail discipline and treatment we adopt, that system should absolutely prevent the possibility of one prisoner contaminating another. I am led to give prominent notice to this point from observing the practice in this province, and I believe very generally in India, of putting prisoners together at night in one large barrack. I maintain that this practice not only is opposed to all reformatory principles, but is absolutely injurious to the prisoners themselves, and productive of very great evil and serious crime. It is well known that at night in these barracks, the prisoners talk and converse as they choose: one prisoner recounts his adventures to an admiring circle, whilst others plan further crimes to be carried out when released. The night is looked forward to as the period of pleasure, of gossip, and it must be said and not concealed, of criminal indulgence. Unnatural crime is *known* and has been *proved* to exist in one of our largest jails in the province, and considering how difficult it is to discover such practices it is quite possible and probable that this may be carried on to a great extent; for we know that some classes of natives are addicted to this crime. I believe, myself that a murder which lately occurred in this jail, when one young man killed another

with a native spade, was committed from motives arising from this unnatural crime. Now the only real preventive measure to effectually stop such proceedings and crimes is, not to attempt to prevent them by native warders, on watch all night, for they could not be trusted to remain awake or to do their duty faithfully: but it is simply to give to each prisoner a separate sleeping cell. I am quite aware that the expense at first of so doing would be considerable, and I am most anxious to discover some means of producing the result required without incurring the expense; but I am convinced that any measure short of the absolute separation of each prisoner at night will certainly fail.

Prisoners employed on public works many safely be placed together at night, for then under the reformatory system they have reached the intermediate stage; they are under the influence of very different feelings; are in a position which has been achieved with difficulty, and which they will not carelessly risk; and are tolerably near their discharge, at any rate on tickets of leave; moreover, the reformatory tendency of the discipline they have passed through before they reached that stage, may have in some degree, if not altogether, convinced them that it is more to their advantage not to indulge in such crimes. Prisoners employed at trades who have reached the intermediate stage still always in Ireland, have separate sleeping cells.

But whether with reference to habituals or to casuals, as we know that in India any preventive measure depending solely on the fidelity and watchfulness at night of native warders, could *not* be carried out with *perfect certainty*; and as it is evident that it is the paramount duty of the State in all countries to be as certain as it can that its measures are not producing absolute evil; it follows that when a measure tends to produce the constant probability and possibility of such a fearful state of things amongst prisoners as unnatural crime, and that measure can be annulled or changed, it is the duty of the State to insure such being done.

It is difficult to conceive any expense being too great for a State justly, and I will add indeed *profitably*, to bear, rather than that any one of its measures should produce such results. But I am sure that the State would in time be amply repaid for the expense incurred.

Some return, and a very valuable return for the expense, would it is highly probable be evident at once in the decided improvement in the moral and physical condition of the prisoners; but a still further and larger return would be evident in the greater facility with which all reformatory measures would act on each prisoner, and therefore in the higher state of reformation in which we might fairly hope he would be when returned to society. This great measure, then, of giving in India a separate sleeping cell to every prisoner (not employed on public works in the intermediate stage of treatment), is I submit imperatively necessary, not only on moral grounds, though they are of the first importance, but for sanatory and reformatory purposes.

It is for consideration whether the local funds of a district should or should not be made to bear some part of the expenses incurred in the district jail, on account of prisoners who are clearly proved to be residents of that district. As a relief to the Imperial exchequer it seems a tempting plan, and one which within reasonable restrictions might justly be adopted. In Great Britain each county pays a considerable portion of the jail expenses, but with that is connected a local management which has been proved to be disadvantageous. The management of prisons should certainly be national and not local.

SHORT AND LONG SENTENCES.

Regarding short and long sentences, I need only remark that if the evil of short sentences on “habituals” has been sorely felt in Europe, we have no right to expect exemption here if we fall into the same error; sufficient has been written to prove that it is as unkind to the offender, as it

is unjust and injurious to every honest member of society.

To show how short sentences passed on habitual offenders are not, in this province, deterrent; and how much attention is required from magistrates as regards a prisoner's previous character and convictions, before passing sentence, I give the following cases, as a few out of a great many, but enough to illustrate the futility of passing short sentences on habitual offenders.

One "Dheendar" was for three separate offences imprisoned on 23rd April 1862, and released on 23rd April 1866. He had not been out of jail three months when he was again convicted on four separate charges and again imprisoned; on this occasion his sentence amounts to 8 years; but unless our jail discipline is made more reformatory than it is at present, we may not expect that at the end of his sentence he will endeavour to earn his livelihood by honest means.

| NAMES. | OFFENCE. | PUNISHMENT. | SENTENCED. |
|--------|---------------|-------------------------|------------|
| Alloo, | Theft, | 1½ year's imprisonment. | March 1849 |
| | do. | 6 months. | March 1860 |
| | do. | 1 year. | March 1862 |
| | Cattle theft, | 1 year. | 1865 |

Noor Ahmed has been eight times convicted on theft and bad livelihood since 1850.

For the 1st offence, sentenced to 1 year's imprisonment.

| | |
|-----|--------------|
| 2nd | 1 do. |
| 3rd | 6 ms. do. |
| 4th | 6 do. |
| 5th | 2 do. |
| 6th | 1 year's do. |
| 7th | 1 do. |
| 8th | 1 do. |

In both the above cases previous convictions were on the last trial duly brought to the notice of the magistrate.

AND LONG SENTENCES."

| | | | |
|-----------------------------|---|--|--|
| <i>Fa- zil.</i> | { | For theft, sentenced to 3 months imprist. in Jany. 1861 | |
| | | do. 1 year's do. in Octr. 1862 | |
| | | do. 30 stripes in Decr. 1864 | |
| | | do. 1 year's imprisonment and 30 stripes 17th Jany. 1865 | |
| <i>Jo- wal- la.</i> | { | For theft, sentenced to 2 year's imprst. in Jany. 1859 | |
| | | do. 2 months September 1861 | |
| | | do. 30 stripes April 1862 | |
| | | do. 30 do. June 1862 | |
| | | do. 1 year and 25 rupees fine or } Janry. 1863 | |
| | | 6 months more, also 20 stripes, } | |
| | | do. 30 stripes Febr. 1865 | |
| | | do. 4 months July 1866. | |

Five of the previous convictions were duly brought to the notice of the magistrate before the last sentence was passed.

The career of one Dhutta illustrates the undeterrent effect of our punishments and jail discipline on an habitual offender :—

| | |
|----------------|--|
| <i>Dhutta.</i> | Sentenced 8th June 1844, to 1 year's imprisonment and stripes. |
| Do. | Augt. 1849 to 2 do. rigorous imprisonment. |
| Do. | Decr. 1851 1 do. „ |
| Do. | Mar. 1853 1 do. „ |
| Do. | „ 1 do. „ |
| Do. | do. 5 turned out of cantonment on recognizance. |
| Do. | Octr. 1855 12 stripes and turned out of cantonment. |
| Do. | July 1856 1 year's imprisonment. |
| Do. | Febr. 1859 30 stripes and turned out of cantonment. |
| Do. | Febr. 1859 3 years imprisonment. |
| Do. | April 1862 1 do. do. |

| | | | |
|----------------|-----------|------------|---|
| <i>Dhutta.</i> | Sentenced | Novr. 1863 | 6 months' impt. and 20 rupees fine or 6 months more. |
| Do. | | July 1865 | 1 year's imprisonment. |
| Do. | | July 1866 | committed to the Ses- sions, in three cases; result not re- ported. |

The offences were chiefly "thefts." In a career of 22 years, Dhutta has spent in our jails 13 years at various times, and has been flogged three times. No doubt had he been detected in all the offences he perpetrated, he would rarely have been out of jail so long a period as 18 months.

I may add to the foregoing, a case in which an offender perpetrated a most daring burglary in a European shop in Umballa, the very first night after his release from jail, and was detected by his jail discharge certificate being found on the spot. Also that of a notorious bad character who, having only a few days before received 28 stripes, most deliberately murdered an old and weak man of miserly habits. The story is so illustrative of the non-deterrent effect of our treatment of bad characters, and of the low moral tone of the lower grades of native society, that I give a brief account of it. The old man was over 60, weak and infirm, the murderer about 28 or 30, sturdy, and full six feet high. He got into the house at night, and finding the inner room, in which the old man was sleeping could not be opened, concealed himself in the outer room knowing that the old man would in the morning come into it. Towards dawn the old man arose, opened the door which till then had saved him, and all unconscious of danger, unheeding, and unsuspecting, entered the room where this "habitual" lay concealed. The deed was soon done. The struggle could not be long between feeble old age and vigorous manhood; with one hand the murderer seized the old man's throat, while with the other he cruelly beat him about the face and head. As the murderer left the house a water-carrier saw him, and suspecting he had been plundering intimated an intention of

claiming a share ; subsequently hearing, of the murder he attempted to extort money from the murderer, but did not give the slightest information to the police, or take any steps to cause the murderer's arrest. Apparently by the merest chance the murderer was discovered and arrested ; for the water-carrier and the murderer squabbling as to the amount of money to be paid for secrecy, attracted attention ; a policeman hearing the altercation near a shop asked what the squabble was about, and accidentally put his hand on the arm of the murderer who immediately started back ; that start produced the jingle of rupees ; which at once aroused the suspicions of the policeman who knew the man to be a noted bad character. The murderer became confused, subsequently confessed, and showed where the remainder of the plunder was concealed.

I cannot omit to notice here that the punishment of whipping on adult offenders in lieu of imprisonment is in my opinion not only utterly useless and undeterrent, but decidedly degrading. My experience leads me irresistibly to the conclusion that there is not an adult offender in this province who would not willingly take a flogging to get off a week's imprisonment ; on young lads it may be occasionally useful, but on adults I believe it to be worse than useless. This experience quite corresponds with the results ascertained in England, and I am certain it is correct. It seems cheaper to flog a man and *not* put him into jail ; and if our jails are such as that one prisoner is able to *contaminate* another, it may be the lesser of two evils, but it is I am convinced as wrong in principle as it is futile in practice ; it does not deter any but a child. Whatever be our jail system in India, at least the great principle of "incapacitation" should be enforced against "habituals."

Long sentences cannot however be passed on "habituals" unless the antecedents and previous convictions of those habituals are known. This brings us to the important system of *Registration*.

REGISTRATION.

I have shown what great efforts are being made in

Europe to insure this. The aid of Photography is largely called in, and I see no reason why in each of our central jails a similar photographic establishment should not exist, it would not cost 50 £ to start it nor more than 2 £ a month to keep it up.

In the North West Provinces and in this Province the Chief Courts of Judicature lately ordered lists of previous convictions to be kept by all Magistrates; these if thoroughly interchanged will be very useful, that is to say, if the conviction of A. B. in a district to which he does not belong is sent to the district to which he does belong. The police of this province keep up as complete lists as possible, not only of every man who has been once convicted, but of all who not having been convicted are yet *known* to live by criminal pursuits.

AID TO DISCHARGED PRISONERS.

On the subject of aid to a discharged prisoner, the procedure in Ireland and on the continent show us what is needed. Now in India I think I may safely assert that on this point our difficulties are not so great as in the United Kingdom, and approach more to what is experienced in the less densely populated parts of Europe. Here the criminal who belongs to the agricultural class certainly has not the same difficulty in finding a place in society as in England or Ireland, and I believe I may say the same of the larger number of prisoners who belong to the manufacturing classes. So far we are fortunate, but we may not entirely ignore this duty, and to meet it I venture to propose a system which would be possible, and I think effect the object in view.

The necessity of giving aid to discharged prisoners is generally more felt with reference to "habituals" than to "casuals," as it is more difficult for the former class to gain re-admission amongst the honest portion of our labouring population. I shall first therefore show the system I suggest with reference to "habituals" on discharge. Any plan whereby a sum of money is placed in a prisoner's hand at the moment of his discharge, and all further care for the

prisoner stopped, is in the majority of cases likely to produce unmitigated evil. Unless the prisoner (I am speaking of habituals) has passed through an intermediate stage and has acquired habits of self control, and is, so to speak, able to walk by himself, he is to all intents and purposes as unable to guide and control himself, after having had every thing done for him for a long term of years, as a child just freed from leading-strings. The chances are, either that he will squander the money rapidly, or that he will join bad companions who will deprive him of it; or that it will serve him as capital with which to start in a fresh career of crime.

That this principle is true, namely that a man who for some years has had no necessity for using his powers of self-control or thinking for himself, is when dependent on himself exceedingly helpless, and requires time to regain those powers which long disuse has enervated if not destroyed, we have only to look at the army. Many a soldier, who whilst under the restraints of discipline was a good soldier, and who left the army with an excellent character, and perhaps even in the position of sergeant major, is, when freed from the restraints and without the support of the army system, quite unable to manage for himself or to control himself; he but too often falls a prey, either to his own passions which for years under army discipline were so restrained as to be unfelt by him, or to the designs of evil men amongst whom he falls almost as helpless as a child. I very rarely find that a discharged soldier however good his army character has been is fit to be trusted with the duties of a police officer unless he has left the army for some years, and in that time has re-acquired habits of self-control, power to resist temptation, &c., and proved that as he can depend on himself so others may depend on him: so unavoidably enervating is any system which provides for all a man's real wants, relieves him from all care and anxiety regarding his own daily support, and protects him from those temptations which he must experience, when unaided and unrestrained, he has to earn his own bread.

It therefore seems to me very necessary that prisoners on discharge (habituals especially) after long terms of confinement should be cared for by the State, and should not be simply turned adrift with just a little money in their possession. To put this view into practice I suggest that to every central jail, that is a jail containing long termed men, (habituals), should be attached an officer whose duty it would be to endeavour to aid prisoners on their discharge in their efforts to get employment. Funds to a certain extent should be at his disposal for this purpose, under proper control and restrictions.

As an invariable rule every prisoner discharged, should be made to state where he purposes residing, and how he hopes to earn his living.

It should be the duty of the jail authorities to report the discharge, and send the descriptive roll of every prisoner so discharged, to the chief police officer of the district in which the prisoner has stated he purposes residing. The prisoner should be told that if he does not arrive within a reasonable period he will be sought for; and if he does not obtain any employment or make any effort to do so, he will assuredly be liable to further imprisonment as an incorrigible vagrant.

At the same time the police should be held responsible for bringing to the notice of the magistrate of the district the case, and soliciting his aid on behalf, of every discharged prisoner, who, being willing to work, cannot find it or is without it, with a view to the magistrate doing all he can to help him. So far as the police can, they also should aid all discharged prisoners to get work, and be held to some extent responsible for acting as friends and not as enemies to all who really will work. As part of this system, namely aid to discharged prisoners, I suggest that there be established in connection with each jail an "Industrial" building, within which discharged prisoners can find shelter, and where food will be provided them on condition that they *first* do a certain amount of work. I will not here enter *at length* into

the question of work-houses for the honest poor man who is helpless and without work, beyond saying that this industrial building should be as open to him as to the discharged prisoner. It is well known that in seasons of scarcity in England, and specially in Scotland, the poor have actually committed petty offences in order to get into jail, where at any rate though the labor was hard yet they got food and good shelter: they were saved from the pangs of starvation and the inclemencies of the weather. In Scotland, moreover, for some time, until the question was raised as to the legality of thus applying prison funds, any person was admitted to the prison who voluntarily submitted to all its rules; he only receiving in return the food and shelter allowed to prisoners.

Mr. Frederick Hill, Inspector of Prisons in Scotland, points out how exceedingly wise and beneficial the arrangement proved so long as it lasted, and says:—

"The principle on which these poor creatures thus obtained food and shelter appeared to me to be perfectly sound; indeed, it seems one of the plainest rules of jurisprudence, and a rule which cannot be departed from without danger, that whatever is enforced on the offender should be open to the innocent man; that no privilege should be awarded to crime; that purity should not be sent to blacken itself as a qualification for attainment."

If therefore an honest man is entitled to the food and shelter of a jail on fulfilling its conditions, he is certainly entitled to the same in the arrangement I propose; and which I believe would be of immense advantage, not only to the discharged prisoner, but to the honest poor, who at times are without any fault of their own thrown out of work.

It would serve as a nucleus for all such relief to the poor, and be of immense use in time of famine or scarcity. This "industrial building" I would in this country always place near the jail, so that it may be looked after to some extent by the same establishment. It would not be at all difficult to have connected with it an industrial building for Europeans who are out of employ, and who are steadily increasing in numbers, and may be expected to increase. The native and the European industrial houses might be made to

work together admirably, and be of immense benefit to the parties concerned, and to the State.

I have merely thrown out a few ideas and sketched as it were the leading points of a system for aiding discharged prisoners, which seem to me well suited to India, and fairly worth trying. All details could be well filled in by local authorities according to circumstances.

As regards aid to discharged "casuals," who I have assumed will never be discharged from central jails but from district jails, I think a similar agency and building attached to each district jail would be invaluable. Each district would then possess its "industrial house" for providing labor, and no doubt could work it to great advantage.

It would not be difficult to frame such rules and make such arrangements as should insure these industrial houses being used only by the classes they are intended to benefit.

The work would be *hard*, and of course no attraction for a vagrant; moreover, as a *principle* nothing would be given until a certain amount of work *was done*.

Now in all these arrangements I have considered the State as taking action, and managing and controlling and bearing the cost; and in this country, of necessity, the State is obliged to do more, to lead the way more than in England: but I do not therefore ignore the valuable aid which may and should be sought for from the people themselves. In every way I would seek to associate them with us, to interest them in our efforts, and to gain their powerful aid.

WORKHOUSES FOR THE POOR, &c.

I cannot abstain from all notice of the ordinary workhouses, as they are commonly understood in Europe; for the question of relief of the poor is intimately connected with the increase or decrease of crime.

The time is no doubt drawing near when each large city must make collective efforts for the relief of the poor, and when the present most pernicious system of indiscriminate private charity must cease.

I say pernicious and indiscriminate, for my experience convinces me that the sturdiest, the most impudent, and the most persevering beggar, always in India is the most successful; he lives in fact by extortion,—generally working on the superstition of the people, and success encourages him to adhere to his vagabond life; whilst the infirm, the sick and the deserving die in want and misery, so soon as their strength is not sufficient to enable them to urge their claims; and so they perish unnoticed and often unknown.

The report by J. Anderson Esquire, M. D., Inspector General of Hospitals Presidency Circle, is so corroborative of what I assert that I give the following extracts, and submit that they prove that, in Calcutta at any rate, the evil is now felt and seen; and I believe there is not a large city in India where the same state of misery and distress does not as fully exist; but it is not seen, and it is not felt, because Europeans have not yet had it forced on their observation.

I fully concur with Dr. Anderson that every city should be compelled by an act of the legislature to provide for its poor. The question is intimately connected with the prevention and detection of crime, for most of the beggars, and certainly most of those with religious pretensions, are incorrigible vagabonds, and lose no opportunity of committing any offence whereby they think to benefit; and if work-houses are provided, the police can then with justice stop all begging. In England the agency of the police has been used for disbursing relief to the poor, and the expenditure has thereby been reduced one-half: a professional beggar will not apply to the police.

I must not be supposed to mean that in India amongst our rural population there is as in England the same necessity for providing relief for the poor, but that in our cities, where we approach a very similar state of things, the necessity does I believe most fully exist; and moreover, that nothing short of a legislative enactment will be sufficient to produce the relief required.

Dr. Anderson observes:—

"It is but too evident from this return, as well as by the reports of the medical officers in charge of the native and college hospitals, that there is much wretchedness amongst the poor of this great city; that many outcasts pine away to the point of death for want of proper and sufficient food; and when picked up in the streets and taken to hospital become a most serious cause of disease to the other patients.

"It is very probable that here, as in London, there is, and always will be, a number of poor, who prefer begging to work, more particularly when begging is a lucrative trade.

"But in the great metropolis, though cases of utter wretchedness and even of death from want of food, do, notwithstanding every care, sometimes harrow the minds of the public, yet these are not to be taken as instances by which to measure the condition of the population.

"In London there is an organized system of charity which provides for every one food, shelter, and clothing, so as to enable the law to prohibit begging without any fear of evil consequences to real objects of charity. The Mendicity Society gives food to those who are found deserving, and each district or union has its work-house, which provides comfortably for aged men and women, for the sick and disabled, and for all persons unable to obtain work and destitute of the means of subsistence. Each union has also its casual or vagrant ward for the relief of wanderers, who either have not, or say they have not, means of finding food and shelter for the night, and this right can be enforced at once on application before the nearest civil magistrate. In some cases relief is given out of doors, and every union has its relieving officer, who visits the poor in their abodes, and in cases of prostrating illness, or of great need, provides food and medical attendance.

"I have no doubt that many of the rich natives of Calcutta bestow much of their goods to feed the poor, and that all are fully alive to the claims of humanity in behalf of their indigent and suffering brethren, but my experience in the hospitals of Calcutta leads me to the conclusion that their charity is *insufficient* and *often misapplied*; and that an organized system, similar to that of London, is most urgently required to prevent the extreme wretchedness and utter destitution evidenced in almost all the patients of the police hospital, and in a large proportion of those admitted into the native and college hospitals.

"Every one must admit that the really necessitous poor should be provided for, and not be allowed to starve in the streets; and I can see no way of accomplishing this most necessary and benevolent object, but by a compulsory provision for their support—a measure which I would beg to urge, in the very strongest manner, on the legislative authorities, as a sure and certain means of saving the lives of many of our distressed fellow-creatures in this city."

As I before said I do not ignore the valuable aid which we ought to receive and no doubt will receive, from the res-

pectable natives of every city in this important duty—we know how very kind and charitable many of them are; but we must convince them that collective charity, combined efforts, can alone meet the difficulty, and show them first the result of our arrangements. We must teach them, as Mr. Hill, Recorder of Birmingham, has truly remarked, that “the best charity, that which alone deserves the name, so deals with its objects as gradually to render assistance both unnecessary and undesired.” As they *see* the benefit I have no doubt they will themselves willingly work with us, and aid, by their munificence in the support of these institutions. If in Bombay a class of natives have established poor-houses, so to speak, for animals who can no longer work for their living, it cannot be doubted but that more enlightened races will aid in establishing poor-houses for human beings who can no longer work. Only, as in all things in this country, so in this, we must first take the initiative, and having proved the advantage of the proceeding, then let the people take their proper share of the duty and the burden. In England the noble principle of the people themselves taking action in all such measures, doing all they can for themselves and not asking for Government aid except as a “*dernier resort*,” has not yet taken in this country deep root. No doubt it will; until it does, the Government is forced to take the initiative; still the principle should not be lost sight of, but be thoroughly implanted in the rising generation and always encouraged in all our public measures.

Returning from this digression to my suggestions for supplying aid to discharged prisoners, it is evident that the “industrial house” attached to the jail need not in any way clash with the work-house (if there be one) of the city, even though I would admit to the former a poor man who is out of employ.

POLICE SUPERVISION.

The next subject for notice is that of police supervision over discharged prisoners, or over known offenders who are not living by honest means. I have shown at length how

this is effected in Ireland and on the continent ; also that the Irish system has now been introduced into England. In this province, it is as thoroughly carried out as is at present possible. I am quite aware, that many persons from the kindest possible feelings, think that police surveillance is likely to produce more harm than good ; but its necessity has been too clearly proved in other countries to admit of its being dispensed with entirely, and in the mode of its operation it need not of necessity be an evil. The police have no motive or object in interfering with a man who they know is honestly earning his living ; it is a great labor to them, exercising surveillance over active offenders, who require constant watching ; and therefore the police are not interested in adding to their labors by looking after others. *Of course* the objection is possible, that the police may use extortion, and threaten a man with putting his name down on the surveillance books, unless he pays them not to do so. Now if this is even admitted, any one who has seen much of police working knows that it is the really bad character who can and will willingly pay the police, either to take his name out of their books or to cease their surveillance. As a rule, the man who once having been an offender, is earning an honest livelihood neither can nor will pay the police. His *pursuits* are not interfered with even though his name is for a time on the surveillance register ; whereas the pursuits of the really bad character are, for the police know he is always working in some criminal pursuit or other, and as they are responsible for the increase or decrease of crime so his working will tell against them ; moreover, no one but an European officer can either put a man's name on or take a man's name off the list, and he only does it after careful local inquiry. So that I maintain the system is not an evil, but an absolute necessity, and decidedly beneficial as a preventive and protective measure.

It does not prevent the offender getting work ; and I am certain if the great principles I am striving for are carried out, it will be a great aid to all ex-prisoners to get work. At present where known and old "habituals" are

discharged on the country, *not* having passed through any reformatory treatment, not having been tested by any intermediate stage, how can the police *recommend* any man to employ them? Do we not *know* that they as a rule leave our jails if anything *more confirmed offenders than they went in*. I am perfectly certain that the great majority of our *habitual* offenders invariably on release return to their old pursuits, and, poor wretches, it is hardly to be otherwise expected; for there are no arrangements to help them to get work, and they are plunged at once from strict confinement into absolute liberty.

EDUCATION OF PRISONERS.

Regarding the education of prisoners I will not say much. Nothing to my mind can be more fruitless than merely teaching them to read and write, and not at the same time striving to inculcate, at any rate, those moral doctrines which are acknowledged by men of all creeds. Where you have a prisoner from the better educated classes, and know that reading and writing will be useful to him when he leaves the jail, I certainly would teach him; but where you have prisoners chiefly from the agricultural or laboring classes, and you know that reading and writing is with almost infallible certainty absolutely useless to them, I say it is a waste of time forcing them to learn. I am not here speaking of the young, the juveniles: by all means let them learn to read and write, no matter what class they belong to; nor am I speaking of such prisoners who beg as a favor to learn to read and write, and show by their assiduity that they really do intend to acquire the knowledge; but I speak of the mass of our adult prisoners. I would not compel them to learn to read and write; it should be left to their option; the opportunity of learning should be available to them if they wished to learn. For them I would provide *industrial* teaching, and the oral inculcation of such principles of morality as commend themselves to the minds of most men. Each man should if possible be improved; that is, have his knowledge increased in that particular line of life to which on

discharge he will be likely to return, so that he will absolutely take his place in society better able to do his work than when he left it. To this it may be said that no jail is large enough to find work for masons, carpenters, agriculturalists, &c.; true, but if the "intermediate stage" is introduced, the world around them will provide the practical part of the work, and the jail may have helped much in the theoretical, and some little in the practical. Each prisoner should be taught the exact object the law has in passing sentence on him, and that part of that object is his *reformation*. He should feel and learn that every one is not now his enemy; on the contrary, that all the officers in the jail at any rate are his best friends; he should learn the real power he does possess of self control; that he can honestly support himself, and that it is more to his interest to do so than to revert to his old habits; he should thoroughly be made to understand that a return to those habits will certainly involve a return to jail. These it will be said are not very high motives to work on. I reply we must do the best with the means at our disposal, we cannot preach Christianity to our prisoners, but we can appeal to that remnant of Divine light which I believe God has left in each man's conscience, which shows him what is good and what is evil, and we can try and induce him to do good if for no higher motive than simply because it is more to his interest to do so. After all, if we will only admit it, are not the selfish interests all paramount with most of us? Look at the success of Mettray, and yet Mr. Hill says:—

"How many motives are brought into operation at Mettray to promote *habits* of good conduct. *First*, the *selfish* interests are appealed to, as those which operate upon all, from the lowest in moral condition to the highest. Good conduct is of course rewarded, and its opposite punished. There is nothing new in a resort to these principles; it is made everywhere; nevertheless, much may be learned in studying their skilful application at Mettray."

In justice to Mettray I must add that religious instruction is given its proper place, as Mr. Hill goes on to say:—

"But Mettray would be very inferior to what it is, were the selfish interests *alone* appealed to. Let the inquirer mark the constant appeal to the highest feelings, temporal as well as eternal."

In India we cannot give, for it would be forcing on our prisoners instruction in the Christian religion ; but there is a vast deal we may do for their benefit without doing that, and I consider we ought to do it. Instead of confining our efforts, to instructing in reading and writing, men who will never require either the one or the other in their daily career, I see no reason why, at any rate in our central jails, the prisoners should not be benefitted by lectures on subjects, similar to those given with advantage to the convicts in Dublin, for instance :—

Labor, its dignities, its rewards.

Crime, its profits and loss.

The system of the prison, and its *object*.

The effects of bad company.

Their duties to God, to themselves, and to their neighbours.

I have given such copious extracts showing how this important duty is carried on in Ireland, that I need say no more.

Amongst other points which all reformatory measures should teach a prisoner, one very important one is *self-respect*.

Now I must say that our system of making each man wear by a string round his neck, or attached to his coat, a little wooden tablet on which is written the offence for which he was convicted and his sentence, is decidedly calculated to degrade and not to improve that man. If the principle of *individualization* is properly carried out, prisoners soon are known to the prison officers, and a number is quite sufficient to recognize a man by.

It should not be necessary to have these tablets for purposes of recognition. The only badges a prisoner should wear should be his number and honorary marks, or marks showing his progress in working his way up in the prison. This may seem a little matter, but I am satisfied it is not so, and that if our prisoners are utterly insensible to shame and do not care about it, still it is to be hoped the day will come when they will care about it ; we should not do what is

wrong in principle. Again, I observe in our central jails, barracks marked thus in large letters, "thieves," "robbers," "coiners," &c. &c., implying that the unhappy inmates belong to one or other of these denominations. I see no object in proclaiming this to all the jail and all who visit it; on the contrary, it seems a plan well suited to the pens in which you confine the live stock on large farms when you wish to separate stock of particular breeds; but to be altogether wrong as applied to the places in which you confine human beings. I cannot too strongly urge that everything which tends to destroy the self-respect of the prisoner should be at once and for ever swept away.

PRISON OFFICERS.

Intimately connected with this subject is that of "prison officers." What their qualifications *ought to be* has been fully stated. I would only urge here, that I believe we may in India obtain a very fair class of men if we will but adequately remunerate them. To begin with the lowest menial, the jail "Burkundaze," a man who is constantly on duty of some kind or other with prisoners: he is generally paid just about what a day laborer could earn in former days by carrying earth on his head, and not so much as a day laborer on the Railway works now receives. Unquestionably, if you are to expect honesty and probity from such a man, if you are to expect he will not take bribes to convey to the prisoners tobacco, &c. or to act as a messenger between the prisoner and his friends, or to wink at little irregularities, or to give little indulgences, you must pay him so well that it shall be better worth his while to serve you faithfully than to try and make money by serving the prisoners. In Ireland and *everywhere*, they pay the very greatest possible attention to getting good jail officers; see the remarks by Sir W. Crofton in Ireland; by Mr. Frederic Hill in Scotland; and M. Demetz in France. All are unanimous that it is most essential to get the best officers that can possibly be obtained; in truth it is of vital importance. At any rate then in India we

should try the effect of paying higher, and I fully believe we shall get a very much better stamp of men, and be amply repaid by the effect of our jail discipline being so much more *felt* by the prisoners. In Ireland Sir Walter Crofton says :—

"No power of *indulgence* is reposed in the *officers of the prison*; the system itself is humane, considerate, careful to secure the utmost amount of hope and improvement for the prisoner: and his best reliance consists in the most faithful and strict execution of the system. Any departure from it by the officers would be to embezzle for the benefit of an individual the moral fund available for the whole class."

JUDICIAL SENTENCES.

Régar^ding judicial sentences I have shown the prominent points which in England have been felt to be defects tending to cause a failure of justice; and from which in India we certainly may not claim exemption. If in England there is such uncertainty and difference in the sentences passed by different judges in precisely similar cases, if the sentences are said to vary as do the results of a lottery, and this notwithstanding the existence of a strong press, of a public opinion which has every facility for making itself heard, and that publicity which attaches to all sentences in England,—how much more may we expect this to be the case in India, where sentences other than those passed in presidency capitals are rarely if ever known to the world, and where public opinion cannot as readily make itself heard. The many chances of acquittal or of inadequate punishments are stated to be in England great causes of crime, and to give encouragement to criminals. Undoubtedly they produce the same result in India; and it would be most advantageous if the causes for an increase or decrease of crime, were in this country not so invariably sought for, in the failure or in the success of the police, as in the failure or the success in administering justice. Unquestionably the tendency of all the late legislative measures for the treatment of criminals, and the separation of the duties of "thief-catcher" from "thief-punisher" has been very greatly to increase the difficulties

of conviction, and to give to offenders more chances of acquittal. I do not for one instant mean to impugn these measures, the truth of the principles they embody cannot be injured by the errors or weaknesses of our practice. The greatest benefit that has in these matters been conferred on the people, is I believe that by which the officer who tries the offender has, or should have, nothing whatever to do with his prosecution. But I mention them to show that in addition to the causes operating in England we have yet other causes, which render it all the more desirable that some measure should be introduced whereby punishment can be made more uniform and more certain.

Now in England they are most successfully meeting the difficulty by the system of registering all previous convictions, and bringing them to the notice of the judge, subsequent to conviction and prior to passing sentence, with a view to a heavier sentence being passed than the offence by itself would call for. We have for some years attempted in the police department the same system in this province, but until it becomes a more fixed and determined rule that a second offence should invariably be punished more severely than a first, and a third than a second, and so on, all the advantages of previous registration will be lost.

As I have before repeatedly stated, the great object ever must be to distinguish between the habitual and the casual offender. The former should be treated to long sentences, in which the reformatory element is given a proper time for action; the latter to sentences, short, sharp and deterrent,—yet as far as possible also reformatory.

Unless the antecedents of an offender are known, it is impossible that our laws can give enhanced punishment to the habitual; therefore, combined with the system of registration of previous convictions, is that of police surveillance; the former will remain but a very weak measure without the latter. In India, where there is no such action of the press as in England, and public opinion is not so interested in such matters, I consider that the action of magistrates who deal chiefly

with minor offences, most certainly requires far more supervision by the superior officers of the judicial department, than it now either can or does receive.

A most inadequate punishment may be passed on an offender who has been several times convicted of similar offences, yet unless the attention of the superior officer is drawn to the case on appeal, the chances are, he will not even know of it; not that he could enhance the sentence, but he could teach his subordinate how to act in such cases, and if he found him constantly acting in this way, recommend that his powers as a magistrate be withdrawn. It is by the impunity with which "casuals" commit a series of petty offences that they but too often become confirmed and encouraged in careers of crime, and thus prepared to be "habituals." The treatment of minor offences cannot be safely considered an unimportant branch of the judicial department, to be left to the uncontrolled idiosyncrasies of subordinate magistrates. It is in truth most important; the great encouragement to crime which an indifferent treatment of the minor offences may produce, is only known to those who see the results and know what the offenders themselves think of it. This to some extent would be remedied if a second offence was as a rule punished heavier than a first; and perhaps this is the best and most practical check on inadequate punishments, for our superior officers have but little time to teach their subordinates. Another cause leading to produce a failure of justice is, that owing to our not having a sufficient number of European magistrates of age and experience, prisoners not only have often to be marched long distances to be tried, even up to 100 miles, but they cannot be at once put on their trial. Any delay in bringing a prisoner to trial must in India be most dangerous to the course of justice; witnesses are not so well remunerated as to be saved from pecuniary loss, and they must be subjected to much inconvenience. They are of course liable to be tampered with, and a case which when sent up seemed

simple enough becomes by delay enveloped in an elaborate web of deceit and untruth.

"I must not omit to notice, all important as it is, that prisoners should be brought to trial as soon as possible; it is nearly equally important, that whilst under trial they be kept separate from each other. This separation tends immensely to prevent all tampering with prisoners, all concocting of evidence, all denial of truth.

The associating together in one ward of prisoners under trial, even though they have been committed for separate cases and know nothing of each other, yet often leads to the old offender suggesting to the "casual," who perhaps intended to tell the truth, various artifices, prevarications, and untruths to be brought forward on trial. In this way an old offender may do much mischief, may impede the course of justice, and the association is nearly certain to be injurious to the casual offender. As I have elsewhere observed, the "habitual" and the casual should always be kept apart.

If this principle of separation is only carried out, I feel sure the measure will be of the very greatest value in rendering the course of justice speedy, certain, and therefore deterrent.

But if the separation is necessary as regards prisoners not connected in the same case, it is infinitely more necessary when two or more prisoners are concerned in the same case. If in such cases magistrates, as a rule, would first as a preliminary inquiry examine each prisoner separately, and not in the presence of the other prisoners, the chances of eliciting the truth would be increased ten-fold. This seems a very simple common sense procedure, but as one magistrate has objected to it as contrary to the intention of our Code of Criminal Procedure, I feel the point needs notice. I believe it is not illegal; and it is very evident that such a procedure is immensely to the advantage of the prisoners, if they are innocent and tell the truth; for the chances are, that their statements thus separately elicited, will sufficiently agree to satisfy the magistrate of the general truth of their story; whereas if they are guilty and do not tell the truth, the chances

are their statements (unless they have by being associated together been able to fabricate a story) will not agree. Innocent men therefore will be likely greatly to benefit by this mode of preliminary inquiry, and the guilty be likely to be detected. I need hardly remark that if any part of such statement made by a prisoner is required as evidence against any person, it must be made in the presence of that person. This just law is not however interfered with in the very least degree by the above preliminary inquiry, and I believe the procedure not only commends itself to the common sense of most magistrates; but that half the magistrates in the world invariably adopt it as being of evident advantage to the cause of justice,—as being most advantageous to innocent men, and perfectly just to those who are guilty.

The paucity in the number of our European magistrates, which I have before noticed, also tells most injuriously in another way; for it forces magistrates to try and get through trials as quickly as possible, so as to get through their work. The only remedy is to have more European magistrates; and I think that stipendiary *local* magistrates, sufficiently well paid to ensure good men taking the position, might most advantageously be appointed to supplement those of the "services," who have often as much administrative duty to perform as judicial.

The position of these magistrates should be purely local; should belong to no service, and give no claim to pension.

ALLOWANCE TO WITNESSES.

Intimately connected with this subject, and seriously affecting the due administration of justice, is that of "allowance to witnesses." If the amount is not sufficient to compensate, or tolerably compensate, a man for his travelling expenses, trouble, and loss of time, he will not be a willing witness; and will be tempted to declare he knows nothing, rather than suffer the loss attendant on giving evidence.

The utmost in this province that we can pay witnesses, no matter who they may be, is 3 annas a day, an amount

which cannot compensate any man above the position of a day laborer for the loss of his time and trouble. In England the allowance is granted, to compensate for travelling expenses, for trouble, and for loss of time, and was on 9th of February 1858 fixed on a fair scale for the different classes in society.

VAGRANTS.

Regarding the treatment of vagrants I have shown fully the practice in England, and what I recommend for this country; I will only add a remark made by Sir Robert Montgomery, K. C. B., late Lieutenant Governor of this province, vide the Police Report for 1861:—

"In large cities like Delhi, Umritsur and Lahore, numerous vagrants resembling those in England called 'trampers' exist. They should, the Lieutenant Governor observes, be closely watched, and if they are unable to furnish proper security should be detained under the magistrate's order, and worked on the roads or otherwise, receiving wages according to the plan successfully carried out at Lahore. It is unquestionable that a large proportion of crime is committed by this house-less and home-less class."

TREATMENT OF JUVENILE DESTITUTES AND JUVENILE DELINQUENTS.

The consideration of the two very important subjects, namely, the treatment of juvenile destitutes and juvenile delinquents, cannot in India be set aside as either unnecessary or unimportant. I have shown at such length the procedure proved by experience to be necessary in the United Kingdom, and the action of the legislature, that I need not repeat the various causes and reasons which produced those results.

It is admitted universally that there is no more sure means of reducing crime, than by checking it amongst juveniles; and no more sure means of rendering your juvenile reformatories unnecessary, than by looking after and caring for those poor children who from poverty and ignorance soon fall into criminal pursuits. I have not statistics to prove that every large town in this province or in India contains many destitute children who

assuredly live either by begging or by crime; but can it be doubted? Recollect, I am not speaking of our rural communities, but of our towns, where human beings are aggregated together under pretty nearly the same circumstances as occur in other large towns in other parts of the world. Are we to suppose that in large cities where Paganism or the religion of Mahomet prevails, men are influenced to take better care of their children than in cities where those religions do not prevail? Why then should those cities be free from, at any rate, an equivalent amount of juvenile destitution in proportion to their population, as compared with cities in other parts of the world? I believe the supposition arises simply from our real ignorance of the actual state of things, and that to natives juvenile destitution would not appear as an evil needing any other redress than the application of that large, liberal, but indiscriminate and individual charity to which I willingly bear them witness they are much inclined. I am quite aware that that it will be said that juvenile destitution and delinquency does not exist in the cities of India, as it does in the United Kingdom, or to an extent calling for our attention; to this I reply, have we yet ever sought for it, and *proved* that it does not exist? If not, I maintain that from the very nature of things it must exist. No city in the world which contains a number of human beings, living within a certain confined space, and exhibiting every variation between poverty and riches, can be without a certain proportion of very poor and destitute children, who live either by beggary or crime, and from whose ranks the adult criminal but too often springs. This neglected and destitute class was *not thoroughly known* even in Great Britain, till it was sought for. Dr. Guthrie speaking on the subject of ragged schools for this class said:—

"But I have found it true that there is not a town in Scotland with a population of 6,000 people but needs a ragged school. I could mention two places in Scotland having a population of 6,000 or 7,000 each, where I was told by some gentlemen to whom I mentioned the subject 'Oh there is no need of a ragged school here'. Well I said 'will you give me three gentlemen who will spend three hours tomorrow forenoon, and ascer-

tain whether there is a sufficient number of children not at school, whose parents are not paupers or in prison, but yet are utterly ignorant of the benefits of education; who prefer the indulgence of their vices to the good of their offspring, and have left their children to become beggars in the streets.' They did so, and in that town of 7,000 inhabitants in the course of a three hours visitation, they found not less than 70 children in the condition I now speak of."

In India I urge that at any rate a portion of the educational grant should be devoted to establishing schools for these children; for though it is declared that the Government schools are open to the very lowest in caste, yet in practice the very lowest in caste will not enter; he would feel it to be presuming to attempt to sit with his higher caste brethren; they would greet him with anything but a welcome. Such a little outcast would be far happier in a school where he only met with other little outcasts like himself.

For the class of children then who have not yet subjected themselves to the grasp of the law, I would suggest that schools as above noted be opened. For those who are beggars, vagrants, or who commit petty infringements of the law, I would urge the establishment of industrial feeding schools as in England, with *compulsory* attendance. These are of enormous value. They rescue a lad who has fallen under the law from being branded with the stigma of a jail: they "remove the child who was in danger of becoming a criminal before he has actually joined the ranks of crime."

It has been shown how Act 24 and 25 Vict. of 1861 established these schools, and their action has been so excellent that the number of boys in the reformatories has been greatly reduced in consequence. I need not repeat all the conditions of that Act, or all I have quoted to show the excellence of the measure. I can only add that if introduced into India, it will be an incalculable blessing to the people, and of the greatest possible advantage to the State. It will do more to reduce crime by striking at its very roots, taking away its recruits, than a whole army of police or magistrates can effect, acting only on the adult offender. As regards reformatory schools for those who have been convicted of offences which show they need a more coercive reformatory

treatment, we should establish reformatories. There need be no great difficulty in so doing, the same general principles should be followed as have been proved to answer in Europe; our details of course being adapted to the races we have to deal with. For all boys belonging to the agricultural class, a school something like "Mettray" would offer the best chance of success; for those belonging to the manufacturing classes, buildings near our cities would of course be more convenient. By section 433 of the Criminal Procedure Code a magistrate can commit a boy under 16 years of age to a "reformatory;" we have therefore the intention of the legislature signified; but in order that it may be carried out we need the reformatories.

STATISTICS.

My subject would be incomplete without a few words regarding "statistics." It is of the very greatest importance, if ever we desire to test the effects produced by our laws on the happiness and well-being of the people, that we should have correct statistics of crime. This is a subject in which his late Royal Highness the Prince Consort took great interest, and the result was an International Conference on 2nd August 1860 at Vienna, at which it was observed:—

"Much we are persuaded remains to be done with respect to civil and criminal judicial statistics.

"In this country especially such statistics may be said to be in their infancy. This may be said to be the first year in which the statistics of civil justice have been collected in England in any complete form, and as yet no attempt has been made to extend the same to Scotland and Ireland. Nor do we possess any statistics of judicial administration in our vast colonial empire. Notwithstanding the most conflicting accounts respecting the administration of justice in British India by Native and European judges, but few facts are offered to us whereon to form a correct judgment; we have scarcely any means for ascertaining the mode in which the British law operates in those colonies, where it is enforced under the most exceptional circumstances; and far less any mode of eliciting facts, concerning the application of the Roman, the Dutch, the French, and the Spanish laws, which still prevail in other colonies."

Now there is no insurmountable difficulty, preventing statistics of crime being so prepared in each province in India as to admit of comparison, not only with each other

but with the United Kingdom. Two principal returns are at any rate necessary and possible. I suggest, as we have the great blessing of one uniform Penal Code in force throughout each province, that the *first* return should be compiled according to its nomenclature, and following the order of its chapters. It should be *comparative*, showing offences for the past as well as for the current year.

It is not necessary to show crime under every section of the Code; the offences according to various sections may well in some parts be returned under one heading; but invariably the number of each section should be given, so that reference to the Code itself may show exactly what offences are thus included under one heading. Whatever arrangement is decided on, the same form precisely should be adopted in each province.

The second return should adopt the English classification, grouping offences as denoted by the nomenclature of the Penal Code, under the headings given in the English form; the same form being adopted in each province, and to each offence, the number of the section in the Penal Code which describes it being invariably affixed.

So far back as 1862 I introduced into this department, one return purposely to correspond with the English headings.—My headings are:—

- I. Against property and person.
- II. „ property with violence.
- III. „ „ without do.,
- IV. Malicious offences against property.
- V. Offences against the currency and coin.
- VI. „ „ public tranquillity.

The English headings are as follows, and may well be adopted:—

- I. Against the person.
- II. „ property with violence.
- III. „ „ without do.,
- IV. Malicious offences against property.
- V. Other offences not included in the above.

I must however remark that in India, the difficulties of securing a correct registry of crime are possibly greater than elsewhere. It is the direct interest of every officer in charge of a police station to show as little crime as possible; unless therefore, he is very sharply looked after by European officers he will suppress all reports of crime which he thinks he can safely conceal. The rule which I have introduced, is, that every report of a crime shall be recorded as an offence until it is proved that no offence occurred; no doubt this may show more crime than actually occurs, but it is impossible to allow any option or discretion in the matter to the subordinate police; and once the system is thoroughly introduced, it will be as valuable year by year for all comparative purposes as if only the exact number of offences were recorded. We find that the amount of property stolen does not vary year by year more than might be expected as the result of other causes, and yet the rule is always to record the amount stated by the *plaintiff* to be stolen, and we know the plaintiff in this country always estimates his loss at more than its real value; still for all comparative purposes the return is valuable.

Whilst claiming for statistics their full value, and urging their necessity, yet I must remark also that we must beware of over-valuing them. In India we have not the means of noting our increase in population and wealth so readily as in England (both causes directly bearing on any comparative registers of crime) such as they have in England. No doubt also many other causes affect the truth of these registers, indeed of all statistics, and warn us to accept them with discrimination. For instance a more vigorous police may lead to the detection of more offences and to the supposition that crime is increasing; or the people may be more willing to come and report crime, and to prosecute it and give evidence; and from these causes crime may seem to have increased, so that until our returns can be thoroughly relied on, though I think them very valuable, yet if we find an increased general feeling of security for life and property, whilst the registers showed an increase of crime, I should believe that there had not been any real increase of crime.

TRANSPORTATION.

As the results of our present system of transportation intimately affect this province as well as other parts of India, the subject is one on which I must offer a few remarks. I have shown how "transportation" was virtually given up in England because the colonies would no longer receive the convicts. So much positive evil accrued to the colonies from the presence of the convicts, that the great advantage of "labor" in new settlements was out-balanced by the wickedness of the "laborers."

The petition of the inhabitants of New South Wales, Victoria Van Dieman's land, South Australia, and New Zealand set forth amongst other plaints:—

"That the magnificent capabilities of these colonies as fields for emigration are greatly impaired, and your petitioners, as colonists grievously injured by the wrongs inflicted directly on Van Dieman's land, and indirectly on all the other colonies of Australia, through transportation; the appalling results of which have been disclosed by parliamentary inquiries, and have been repeatedly attested and depicted with expressions of horror by your Majesty's Ministers."

Mr. Waddington, the permanent Under Secretary of State for the Home Department, stated in 1856:—

"The report of that Committee (Sir William Molesworth's) in 1838, was extremely adverse to transportation, and recommended its discontinuance, both as a great injustice to and a serious infliction on the colonies, and also as a bad punishment in itself; failing to *deter* criminals at home or reform them abroad; in fact it is impossible to have a report more decidedly adverse to it."

The late Sir Joshua Jebb stated in his evidence:—

"I say it with all due respect for the opinions of others, but I say it because my own experience rests upon an extended experience and upon facts, that the deterring effect of transportation has been gradually diminishing in the eyes of the criminal classes."

The Lord Chief Justice of England, Lord Campbell, in his evidence before the Select Committee of 1856, said:—

"The object of transportation, in my view of it, cannot be accomplished, unless the prisoner is sent to some country where there is a demand for his labor, where he can become a useful citizen, and where he may re-establish himself in society. There has been a talk of having a penal settlement in one of the Hebrides, or in one of the Falkland islands, without really colonizing. I do not believe that that would at all produce the effect, because it would be little better than merely keeping the imprisonment with hard labor, at home. The persons so dealt with

would acquire no new status ; they could not acquire property, they could not maintain their families respectably."

Mr. Elliot, the Assistant Under Secretary of State in the Colonial Department, observed before the same Committee :—

" I think that so long as a man is locked up in prison you can keep him as well at home, and you can more easily get good officers who are also under the influence of public opinion if anything is done amiss. The difficulty is to provide for the convicts when they become free men in a large community ; for that purpose the Falkland islands are wholly unsuited."

The transportation of criminals to certain of our colonies has been shown to have produced such bad results, that the colonies "*en masse*" petitioned against receiving any more convicts of any kind ; but we may not therefore conclude that the deportation of certain classes of offenders to places where they can under a proper system be re-admitted to society in that colony, is also of necessity undesirable or certain to produce bad results. We have a most striking proof, in the case of Western Australia : this colony *asked* for convicts, but for a class of convicts which would be likely to be useful and not injurious.

The Governor says :—

" The London thief is the worst man that we get, and I would sooner have any man than him ; he will not work if he can help it ; I mean the habitual thief."

He also objects to clerks and persons of that description who have been convicted of forgery and embezzlement :

" These generally contrive in some way or other to escape hard labor, and live very often on the produce of their labor in former times ; these set a bad example ; the men sent out to Australia should be capable of earning their living by physical labor."

The system pursued with the convicts is very similar to that adopted in Ireland, namely a system of marks and tickets of leave under surveillance ; it is said to answer admirably.

It appears then that transportation as a system, carried out on the old principle of simply getting rid of a number of prisoners out of a certain country, is, as a whole, prejudicial, and we know it is very costly. It is evident that as in all our penal measures so in transportation, we should

bear in mind the reformation of the offender, and endeavour to place him in such circumstances, that whilst he pays the penalty of his offences, he also, it may be unconsciously, reforms himself and acquires habits of industry,—the habits on which an honest livelihood depends.

We learn from these experiences that convicts of a certain class, and with certain capabilities, may be most advantageously sent to a colony like Western Australia, which requires "labor," and we see the system those convicts should be under in that colony; we also learn that if convicts are to be simply kept between walls, that can be better done by not transporting them.

As a penal deterrent measure, transportation decidedly no longer holds the position it did. On the one hand, from the progress of civilization and the improvements in communications, &c. &c., the criminal no longer looks on it with the dread attaching to it in former days; and on the other hand, experience has proved that it is beneficial only under certain circumstances, and should therefore not be so universally carried out as heretofore.

That it is not deterrent, the experience of England directly asserts and proves, and I believe the assertion to be equally true for India. In this province certainly transportation is not looked on as the dreadful sentence it was once considered to be: convicts return and convicts send letters to their friends, and from the accounts of either parties, present or absent, the time revered horrors attaching to transportation are not at all upheld. That it is not generally beneficial, and therefore cannot be so universally applied as a penal measure, the experience of England abundantly testifies.

It seems to me therefore self-evident, that, as India is directly affected by the conduct of each convict which returns from her penal settlements, we may not treat with indifference the experience gained elsewhere.

If our penal settlements are conducted on the principles in force in Western Australia, and have the same favorable circumstances to offer to the convict, we may hope for

equally good results; but if they are, as I believe, little more than prisons at a distance, or at most agricultural reformatories, at a distance, I maintain that except for certain classes of prisoners they must be open to all the objections already noted.

All political prisoners, and all life prisoners, who are never to return to India, may probably be better kept out of the continent of India than in it. With their treatment or reformation, local Governments are not directly interested; but as regards all convicts not sentenced for life, and which return to us, unless we can send them to a colony like Western Australia, the wisdom and the economy of sending them out of their respective provinces are at least open to grave doubt.

What is our object in deporting them? Is it that the convict may as in Western Australia re-enter society in the land to which he is transported under new auspices? Do our penal settlements offer this great boon to the convicts? Is it to deter the convict? Simply to deter?

We know that sentences do not deter solely by severity; and as they ought to contain the reformatory principle, can we not equally deter and have as good or better a chance of reforming the prisoners by treating them in our own provinces and not transporting them? The question certainly seems, even on the ground of economy and self interest, to demand the serious attention of every Local Government. If convicts are to return to us, we are the parties directly affected by the conduct of the convict on his return; and infallibly that conduct will depend on the treatment to which he has been subjected during the period of his detention.

Now, as we know absolutely nothing of the treatment to which a convict is subjected in the Andaman islands, nor, if we did could we in any way control it; I think it is evident that we should endeavor to retain and subject to discipline in our own province as many of our prisoners as we can, and only send away to the Andamans the few that remain. To carry out this view I suggest, that all prisoners sentenced to

terms under and up to 14 years inclusive be retained for penal servitude in this province, and all sentenced to longer terms or for life be sent to the Andamans. By this means until India has a colony like Western Australia, which presents to the convict immense advantages, which is willing to receive him, and which requires his labor, I think we shall act more for the benefit of our convicts, more for the benefit of our people amongst whom the convicts will subsequently be discharged, and lastly more economically, if we retain all prisoners sentenced to terms under and up to 14 years. When we have such a colony as Western Australia to send them to, then by all means let us make the utmost use of it; for it is a grand reformatory measure, but let it be a privilege, granted as a favor to the convict who merits it, a privilege which the convicts would soon find it in truth to be. All convicts sentenced to terms of 14 years and under, might as a privilege be sent there if they merited it by their good conduct and industry. All convicts sentenced to terms exceeding 14 years or for life should, I consider, pass the earlier portion of their sentences in a more penal state of servitude than could be advantageously attempted in a colony like Western Australia; having gone through that penal stage, and merited the privilege, they might with advantage to the colony and to themselves be sent there. By this plan the worst convicts would have "hope" of ameliorating their condition, and the colony would rarely get convicts whose previous conduct had not been tested, and who were therefore likely to be of little use and perhaps to be injurious.

CHAPTER VII.

INDIA IS A COUNTRY WHICH PRE-EMINENTLY REQUIRES REFORMATORY MEASURES.

I must add a few lines to show how India is a country which pre-eminently requires reformatory measures, and that therefore its penal sentences should invariably recognize this great principle. I believe there is no country in the world where crime is more hereditary than in India,

that is "habitual" amongst certain classes. We not only have habitual offenders produced indiscriminately from all classes of the poor under circumstances similar to those existing in Europe, though as yet perhaps not to the same extent, but we have whole tribes, whole races, who are from generation to generation notoriously addicted to certain kinds of crime : now if ever reformatory action is called for, it is against habitual offenders, and here we have them in thousands.

I will notice a few of the chief offences which in this country are generally carried on from father to son, until death, transportation, or imprisonment has disposed of nearly the whole race :—thuggee, poisoning, dacoitee, professional swindling, coining, cattle-stealing, thieving, &c. *Lastly* the criminal tribes will be also briefly noticed.

THUGGEE.

First *thuggee*. I must observe that this crime has been nearly extinguished in British territory by the agency of the Thuggee Department, and that in native states it is believed not to prevail in any kind of proportion to the extent that it did formerly ; but a Thuggee Department is still of necessity kept up solely for its suppression, and the crime is still perpetrated, though it is believed that the thugs who remain, have taken to poisoning their victims instead of strangling them.

It is necessary to notice this crime as showing how whole families devoted themselves to its pursuit, and how the state of society was so depraved that this dreadful practice flourished with the connivance and almost support of the race of land-holders, in those parts of the countries where it was most prevalent. My statements are taken from works published by the late Major General Sir William Sleeman, K. C. B., for some time, so well known as the celebrated chief of the Thuggee Department, and from a report on Thuggee in the Punjab by the late H. Brereton, Esquire :—

“ ‘Thuggee’ is a term applied in India to a system of murder by strangulation.

"It is not improbable that formerly a long string with a running noose, might have been used by ("Phansigars") stranglers, for seizing travellers, and that they robbed on horseback. But be this as it may, a noose is now I believe never thrown by them from a distance, in this part of India. (Madras presidency report by Doctor Sherwood.) They sometimes use a short rope, with a loop at one end, but a turban or a dhotee (a long narrow cloth or such worn about the waist) are more commonly employed; these serve the purpose as effectually as a regularly prepared noose, with this advantage that they do not tend to excite suspicion. When such a cloth is used, it is previously to applying it doubled to the length of two or two and a half feet, and a knot is formed at the double extremity, and about eighteen inches from it a slip knot is tied. In regulating the distance of the two knots so that the intervening space when tightly twisted, may be adapted to embrace the neck, the " Phansigar" (or strangler) who prepares the instrument ties it upon his own knee. The two knots give the " Phansigar" a firm hold of the cloth, and prevent its slipping through their hands in the act of applying it.

"Thievenot, in his travels published in 1687, says, speaking of the road between Delhi and Agra, 'one may meet with tigers, panthers and lions upon it; and one had best also have a care of robbers, and above all things not suffer any body to come near one upon the road.

"The cunningest robbers in the world are in that country. They use a certain rope with a running noose, which they can cast with so much sleight about a man's neck when they are within reach of him, that they never fail so that they strangle him in a trice."

General Sleeman observes :—

"There is every reason to believe that the system of thuggee, or phanseegaree, originated with some parties of vagrant Mahomedans, who infested the roads about the ancient capital of India. Herodotus in his Polymnia mentions as a part of the army with which Xerxes invaded Greece, a body of horse from amongst the Sagartii, a pastoral people of Persian descent, and who spoke the Persian language. Their only offensive weapons were a dagger, and a cord made of twisted leather together with a noose at one end. With this cord they entangled their enemies or their horses, and when they got them down they easily put them to death; now, though there is a vast interval of time between the Persian invasion of Greece and the travels of Thievenot, and of space between the seat of the Sagartii and that of the ancient capital of India, I am still inclined to think that the vagrant bands who in the sixteenth century infested the roads, as above described between Delhi and Agra, came from some wild tribe and country of the kind; and I feel myself no doubt that from these vagrant tribes are descended the seven clans of Mahomedan thugs:—Bhys, Bursote, Kachnee, Huttar, Ganoo, and Tundel, who by the common consent of all Thugs throughout India, whether Hindoos or Mahomedans, are admitted to be the most ancient and the great original trunk, upon which all the others have at different times and in different places been grafted. Bands of these vagrants, under various denominations, are to be found in all parts of India, but are most numerous I believe to the north west.

"Apparently in the Madras Presidency, phansigeeree, or thuggee was not known to Europeans until shortly after the conquest of Seringa-

patam in 1799, when about a hundred were arrested in the vicinity of Bangalore. They not did engage general attention; nor would it appear that they were suspected to belong to a distinct class of hereditary murderers and plunderers, settled in various parts of India, and alike remarkable for the singularity of their practice and the extent of their depredations. In the year 1807 between Chittoor and Arcot several Phansigars were apprehended belonging to a gang, which had just returned laden with booty from an expedition to Travancore, and information was then obtained which ultimately led to the development of the habits, artifices, and combinations of these atrocious delinquents."

In 1810 so numerous were the parties of soldiers then annually falling victims when going on and returning from leave, that the Commander-in-Chief issued an order on 28th April 1810, warning all sepoys against these Thugs then infesting all the main roads.

"For many years up to 1829 these assassins traversed every great and much frequented road from the Himalaya Mountains to the Nerbudda river, and from the Ganges to the Indus without the fear of punishment from divine or human laws.

"But India is emphatically the land of superstition, and in this land the system of thuggee, the most extraordinary that has ever been recorded in the history of the human race, had found a congenial soil and flourished with luxuriance for more than two centuries; till its roots had penetrated and spread over almost every district within the limits of our dominions, when the present plan of operations for its suppression was adopted in 1830 by the then Governor General, Lord William Bentinck."

The *modus operandi* pursued by the thugs has been variously described, but they all as a rule invariably aim at producing death by strangulation, and not by any other means which would entail cutting and wounding. Instances however have been given in which thugs, emboldened by long success, have surrounded parties of armed men and destroyed them solely by offensive weapons, such as swords, &c., and have not attempted to effect their object by strangulation. In all such cases the circumstances showed that the thugs were prevented attempting their usual mode of procedure, and resorted to the more open violence of arms, as the only means of obtaining the destruction of the party, and thereby the property they coveted.

The Commander-in-Chief in his letter of warning published in 1810, described their mode of working then, as follows :—

"It has been stated, that these murderers when they obtain information of a traveller who is supposed to have money about his person, contrive to fall in with him on the road or in the serais (a kind of way-side inn), and under pretence of proceeding to the same place, keep him company, and by indirect questions get an insight into his affairs; after which they watch for an opportunity to destroy him. This they sometimes create by persuading the traveller to quit the serai a little after midnight pretending it is near day-break, or by detaching him from his companions lead him under various pretences to some solitary spot.

"It appears that in the destruction of their victim they use some deleterious substance, commonly the seeds of a plant called *Datura*, which they contrive to administer in tobacco, pān, the hookah, food or drink of the traveller. As soon as the poison begins to take effect, by inducing a stupor or languor, they strangle him to prevent his crying out; when after stripping and plundering him the deed is completed by a stab in the belly on the brink of a well into which they plunge the body so instantaneously that no blood can stain the ground or the clothes of the assassin."

Phansigerees (stranglers), never commit robbery unaccompanied by murder, their practice being first to strangle and then to rifle their victims. It is also a principle with them to allow no one to escape of a party however numerous which they assail, that there may be no witnesses of their atrocities. The only admitted exception to this rule is in the instance of boys of very tender age who are spared, adopted by the phansigars, and on attaining the requisite age, initiated into their horrible mysteries. The gangs have often consisted of two and three hundred, though on such occasions they commonly follow each other in small parties of ten or twenty, or operate on roads parallel to each other, and prepared to concentrate on any point when necessary.

"Every gang has its 'sirdar' or leader.

"Different gangs sometimes act in concert, occasionally apprising one another of the approach of travellers, whose destruction promises a rich booty.

"They have the appearance of ordinary travellers and seldom assume any particular disguise. They indeed not unfrequently pretend to be traders.

"Formerly when phansigerees was practised to a greater extent and in a more daring manner than at present, the leader especially if enriched by spoiliations often travelled on horseback with a tent, and passed for a person of consequence, or a wealthy merchant.

"They are accustomed to wait at chontries (way-side inns) on the high roads, or near to towns where travellers are wont to rest. They arrive at such places and enter towns and villages in straggling parties of three or four persons, appearing to meet by accident and to have had no previous acquaintance. On such occasions, some of the gang are

employed as emissaries to collect information, and especially to learn if persons with property in their possession are about to undertake a journey.

"They are often accompanied by young children of ten years of age and upwards, who while they perform menial offices are initiated into the horrid practices of the phansigars, and contribute to prevent suspicion of their real character. Skilled in the arts of deception they enter into conversation, and insinuate themselves by obsequious attentions into the confidence of travellers of all descriptions, to learn from whence they come, whither and for what purpose they are journeying, and of what property they are possessed. When the phansigars determine after obtaining such information as they deem requisite to attack a traveller, they usually propose to him, under the specious plea of mutual safety, or for the sake of society to travel together; or else they follow him at a little distance, and on arriving at a convenient place and a fit opportunity presenting for effecting their purpose, one of the gang suddenly puts a rope or sash round the neck of the unfortunate person, while others assist in depriving him of life.

"If the traveller suspects one party, he soon falls in with another, who seem to enter into his feelings of distrust. The first party is shaken off and the second destroys him. If there is only one party, or the travellers suspect and avoid the whole, two men are placed to watch their motions: and one follows them up, while the other informs the gang of their movements. Two phansigars (stranglers) are considered to be indispensable to effect the murder of one man, and commonly three are engaged. There is some variation in the manner in which the act is perpetrated, but the following is perhaps the most general; while travelling along, one of the phansigars suddenly puts the cloth round the neck of the person they mean to kill, and retains hold of one end while the other end is seized by an accomplice, the instrument crossed behind the neck is drawn tight, the two phansigars pressing the head forward; at the same time the third villain in readiness behind the traveller, seizes the legs and he is thrown upon the ground. In this situation he can make little resistance.

"Some thugs pride themselves upon being able to strangle a man single handed; and in speaking of an absent or deceased thug, mention this as the highest compliment they could pay him; a man, who has been able unassisted to pull a man from his horse and strangle him, will confer a distinction upon his family for several generations. Antecedently to the perpetration of the murder some of the gang are sent in advance and some left in rear of the place, to keep watch and prevent intrusion by giving notice, on occasion, to those engaged in the act.

"Should any persons unexpectedly appear on the road before the murdered body is buried, some artifice is practised to prevent discovery, such as covering the body with a cloth; while lamentations are made professedly on account of the sickness or death of one of their comrades; or one of the watchers falls down apparently writhing with pain in order to excite the pity of the intruding travellers, and to detain them from the scene of the murder. Such are the perseverance and caution of the phansigars that a convenient opportunity not offering, they will sometimes travel in company with, or pursue persons whom they have devoted to destruction, several days before they execute their intention. If circumstances favor them they generally commit murder in a jungle or unfrequented part of the country, and near to a sandy place or dry watercourse.

"Particular tracts were chosen in every part of India where they could murder their victims with the greatest convenience and security, much frequented roads passing through extensive jungles, where the ground was soft for the grave or the jungle thick to cover them, and the local authorities took no notice of the bodies. The thugs speak of such places with affection and enthusiasm, as other men would of the most delightful scenes of their early life. The most noted places were among the thugs of Hindoostan.

"There is not among them one who doubts the divine origin of thuggee; not one who doubts, that he and all who have followed the trade of murder with the prescribed rites and observances were acting under the immediate orders and auspices of the goddess Davee, Durga, Kalee, or Bhowanee, as she is indifferently called, and consequently there is not one who feels the slightest remorse for the murders which he may in the course of his vocation have perpetrated, or assisted in perpetrating. A thug considers the persons murdered precisely in the light of victims offered up to the goddess, and he remembers them as a priest of Jupiter remembered the oxen and a priest of Saturn the children sacrificed upon the altars. He meditates his murders without any misgivings, he perpetrates them without any emotions of pity, and he remembers them without any feelings of remorse. They trouble not his dreams, nor does their recollection ever cause him inquietude in darkness, in solitude, or in the hour of death. As the system of thuggee prevailed on the roads so it prevailed on the rivers: each boat is provided with a crew of about fourteen persons, all thugs, but employed in different capacities; some are employed in pulling the boat along by a rope, and appear like the dandies or rowers and pullers of ordinary boats; some as inveiglers follow the boats along the roads that run parallel with the river, and by various arts prevail upon travellers to embark as passengers on board their boats, where they find many thugs well dressed, and of the most respectable appearance, pretending to be going on or returning from a pilgrimage. These are the stranglers and their assistants, who on a signal given by the man at the helm on deck strangle the travellers; break their back bones; and push them out of a window in the side into the river."

The following story graphically describes the "river system." It is told by an approver, that is by a thug admitted as Queen's evidence, and retained in constant confinement of an easy nature, on the condition that he gives valuable information, and constantly aids in hunting out and recognizing thugs:—

"About 14 years ago I had been on an expedition from Chupra to Moorshedabad; we were twenty-two thugs under Sewbuns Jemadar, who was a Rajpoot. Two of our gang, Khoda Bux and Aleo Yar, had often served with the river thugs, and used to interest us by talking about their modes of procedure. On the other side of Rajmahal we fell in with two of these thugs. They had two bundles of clothes, and pretended to be going on a pilgrimage, and had with them five travellers, whom they had picked up on the road. Sewbuns recognised them immediately; and Aleo Yar and Khoda Bux found in them old acquaintances. They got into conversation with them and it was agreed that Sewbuns, I, and Dhorda Kormee should go with them and see how they did their work,

while the rest of the gang went along the bank of the river. We embarked at Rajmahal. The travellers sat on one side of the boat and the thugs on the other, while we were all three placed in the stern; the thugs on the left and the travellers on our right. Some of the thugs dressed as boatmen were above deck, and others walking along the bank of the river, and pulling the boat by the rope; and all at the same time on the look out.

"We came up with a gentleman's pinnace and two baggage boats, and were obliged to stop and let them go on. The travellers seemed anxious, and were quieted by being told that the men at the rope were tired and must take some refreshment. They pulled out something and began to eat; and when the pinnace had got on a good way they resumed their work, and our boat proceeded. It was now afternoon, and when a signal was given above that all was clear, the five thugs who sat opposite the travellers sprang in upon them and with the aid of the others strangled them. They put the roomal (cloth) round the neck from the front, while all other thugs put it round from behind; they thus push them back while we push them forward. Having strangled the five men, they broke their spinal bones and pounded their private parts, and threw them out of a hole made at the side into the river; and, kept on their course, the boat being all this time pulled along by the men on the bank."

Another approver, recounting an expedition with river thugs, says:—

Jhoulée Khan brought two "Beetoos" to the boat; as soon as we got all on board Jypaul said (in Kamaree) thug language, 'let the thugs separate themselves from the Beetoos', and we did so, leaving the two travellers together. Four men were on the bank pulling along the boat, one was at the helm acting at the same time as the "Bykuree," or spy, and seven of the gang were below with us and the travellers. We had got on about a 'cos' (probably a mile and a half) when the Bykuree at the helm, seeing all clear called out, 'give my sister's son pân.' This was their mode of giving the jhirnee, or signal, and the two Beetoos were strangled. After strangling them, they broke their spinal bones thus, by putting their knees upon their backs and pulling up their heads and shoulders. After doing this they pushed them out of a kind of window in the side; every boat has two of these windows, one on each side, and they put the bodies out of that towards the river. They break the spinal bones to prevent all chances of the people recovering and giving evidence against them."

The thugs who work on the roads and not on the rivers appear, invariably, after strangling the victim to stab him under the arm-pit on either side; if any of the victims manage partially to escape, they are pursued and cut down with swords; no person of any age or of any sex is allowed to escape, except as before noted young children who are adopted and brought up either as thugs, or to be married to thugs.

Thugs use a language of their own called "Ramaseeasā": it was in full use throughout Hindoostan, but never in the Punjab.

I give a few instances of the working of thugs on the roads, showing their dexterity and boldness, the ruthless pursuit of their prey, and in what formidable numbers they could collect :—

" Expedition by a gang of thugs in Oude.

" We followed the high road for about twenty days, in search of travellers, until we reached Selem pore, where we met a very old man going to the east: we won his confidence in this manner (villains) he carried a load which was too fatiguing for his age; I said to him, after some conversation, 'you are an old man, I will aid you in carrying your load, as you are from my part of the country'; he said 'very well, take me with you'. So we took him with us to Selem pore, where we slept at night, we woke him next morning before dawn and set out, and at the distance of three miles we seated him to rest as it was very dark, Madara was ready behind him and strangled him. He was about sixty or seventy years of age; he never spoke a word, we flung his remains into a well, having first stabbed his corpse."

The same actor describes the two following scenes :—

" It was in the rainy season we proceeded via Lonee Kuttra to Newel Guug (not less than seventy-five miles), where I inveigled a traveller. He was a Nujjeeb, a soldier of the Jeypore Raja; at night I awoke him and made an excuse for starting; we proceeded with him in the direction of the next village, Entagow; when about midway between these two villages I endeavoured to persuade him to sit down, my object being to strangle him as the place was convenient for the murder; but he said 'I will not sit down', and took his sword in his hand; so I strangled him as he walked along; he instantly fell and was quickly a dead man. Budloo and Madara thugs aided me by pulling his legs when I seized his neck in the noose. Madara stabbed him and we buried him there. If you wish I will dig up his bones from the spot where we deposited them."

Again, another case by the same man :—

" That day two thugs, Adhar and Salar, the latter of whom is an expert inveigler, won a traveller's confidence. He was a Rajpoot from Lahore, going to his home; he was lodged by the decoyers in the house of a Bunneea in tukeea. They awoke him during the night and set out with him, but on the way he said to his two decoyers, 'you are two suspicious persons, you look like thugs, do not come near me'. Seeing that he had become suspicious I said to the party in my secret thug language, 'go aside, he suspects you.' They returned. The traveller then addressed me expressing his doubts, and suggested that we two should keep together; I agreed with him and expressed my doubts of these two men; so we walked on together, and I took an opportunity of strangling him as he walked. Mukdoomee thug was close at hand to aid; we flung the body into a spot where there was no water, and left it to be devoured by jackals.

" A havildar and four sepoy's of the 37th Regiment, then stationed at Kurnaul, were proceeding together to their homes near Lucknow, when they fell in with a gang of thugs, who pretended to have escorted an European officer to Futteh Ghur, and to be on their way to their

homes in the neighbourhood of those of the party. They spent the night at Jelalpore; and as the party were anxious to make the most of their furlough, they made long marches; and as usual left the place with the gang long before daylight. The gang pretending to be on escort duty was armed, while the sepoy, not half the number, were without arms. They had gone on about two miles when the havildar had some vague suspicion of danger, and unperceived sat down on the long grass by the side of the road; the party had not advanced fifty paces from him when the signal was given, and the sepoy were strangled. The havildar heard their stifled screams, crawled to the village of Khujolee, and brought the police to the spot, where he found the dead bodies of his companions and had them taken to Lucknow; but all search for the murderers was fruitless.

"In the beginning of 1835, one of this gang, then with me at Jubulpore, described this case, and stated that till they counted the dead bodies when about to bury them, they had supposed the whole five to be murdered. Finding one had made his escape in a mysterious manner they were alarmed and ran off, leaving the bodies unburied. I made the necessary reference to Lucknow, and found the bodies had been discovered and the statement so far confirmed; but I had no hope of ever being able to discover the survivor of the party. Some months after this the havildar mentioning to his commanding officer at Nusseerabad the narrow escape he had once had near Julalpore in Oude, was sent to Lieutenant Briggs of my department then at the station; and he described the circumstances just as they had been described to me, stating 'that if he were to live to eternity, the recollection of the horror of that moment when his poor companions had been strangled within a few paces of him and within his hearing would make him shudder.'"

A gang of thugs accompanied from Nagpore to Bingnee, (a distance of more than 200 miles), a family consisting of two brothers and two daughters; two lads to whom they were betrothed; a boy about seven years old, and four servants. During the journey the family actually became so intimate with the thugs that some of its members saved these very thugs from arrest and imprisonment on one occasion when charged with a robbery; notwithstanding this obligation and long intimacy, the thugs strangled every one of the party.

The murder of a moonshee, his wife and infant daughter, and six servants, is thus described:—

"We fell in with the moonshee and his family at Chupara, between Nagpore and Jubulpore; and they came on with us to Lucknawdown, where we found that some companies of a native regiment under European officers were expected the next morning. It was determined to put them all to death that evening, as the moonshee seemed likely to keep with the companies; our encampment was near the village, and the moonshee's tent was pitched close to us. In the afternoon the officers' tents came on in advance, and were pitched on the other side, leaving us

between them and the village. The classees were all busily occupied in pitching them. Noor Khan and his son Sadee Khan and a few others, went as soon as it became dark to the moonshee's tent, and began to sing and play upon a sitar as they had been accustomed to do. During this time some of them took up the moonshee's sword on pretence of wishing to see it. His wife and children were inside listening to the music. The jhirmee or signal was given, but at this moment the moonshee saw his danger and called out murder, and attempted to rush through but was seized and strangled. His wife hearing him ran out with the infant in her arms, but was seized by Ghubboo Khan who strangled her and took the infant. The other daughter was strangled in the tent. The grooms were at the time cleaning the horses, and one of them seeing his danger, ran under the belly of his horse and called out murder; but he was soon seized and strangled as well as the rest. As soon as the signal was given, those of the gang who were idle began to play and sing as loud as they could, and two vicious horses were let loose, and many ran after them calling out as loud as they could, so that the calls of the moonshee and his party were drowned. After the bodies had all been put into the grave, Dhunnee Khan urged Ghubboo to kill the child also or we should be seized on crossing the Nerbudda valley. He threw the child living in upon the dead bodies, and the graves were filled up over it. And the child was buried alive? Yes."

In 1806 a party of six hundred thugs assembled at a fixed place, and thence started in detachments but working in concert. They first murdered a party consisting of a widow of rank travelling with a slave girl and twelve armed attendants; then a party of thirty one men, seven women and two girls; and subsequently numerous other parties.

The following case of diamond cut diamond, illustrates the address and daring of these wretches:—

"We were at least three hundred thugs, and had just performed the concluding ceremonies of the festival of the '*Mohurram*' when a party of about twenty seven persons, dacoits I believe, came up on their way from the Deekan to Hindoostan. They had four ponies laden with rich booty, which they had acquired in an expedition to the south. The following day they came on to Chupara, and we followed. They lodged in the town; we outside. Boodhoo Jemadar, musulman, calling himself Kour Kulluck Sing and pretending to be a Hindoo of rank, went to the party and told them that the road from Chupara passed through an extensive and very dangerous jungle, and begged that for security we might unite our parties, as we were merchants and Government servants, and not very well armed. They agreed, and the next morning one hundred and twenty five of our gang went on with them, while the rest came by another road, all agreeing on a rendezvous. I was with the 125, and on reaching two trees in the jungle sacred to the two saints, Chittureea and Kunkureea, and on which people tie pieces of cloth as votive offerings, the signal was given, and sixteen of the dacoits were strangled and eleven cut down with swords.

"When the resident of Nagpore, Major Close, passed on his way from Nagpore to Bundelcund, we had heard of his approach with a large

escort, and determined to join his party in the hope of picking up some travellers; as in the time of the Pindarrees, travellers of respectability generally took advantage of such opportunities to travel with greater security. Our gang separated into small parties, who mixed themselves up with the resident's parties at different places along the road, without appearing to know anything of each other, and pretended to be, like others, glad of the occasion to travel securely. When the resident reached Belehree some of our parties stated that as the resident was going the western road by Rewah, they had better go the northern by Powae, as there was no longer any danger from Pindarrees, and by separating from so large an escort they should get provisions much cheaper; that water was now becoming scarce on the western road, and was always made dirty by the elephants and camels. Other parties pretended to argue against this, but at last to yield to the strong reasons assigned. We had by this time become very intimate with a party of travellers from Nagpore, consisting of eighteen men, seven women and two boys. They heard our discussions, and declared in favor of the plan of separating from the resident's party and going the northern road through Shikarpore and Powae. On reaching Shikarpore, three cos this side of Powae, we sent on Kunhay and Mutholee to select a place for the murder, and they chose one on the bank of the river in an extensive jungle that lay between us and Powae; we contrived to make the party move off about midnight, persuading them that it was near morning; and on reaching the place appointed they were advised to sit down and rest themselves. All our parties pretended to be as much deceived as themselves with regard to the time; but not more than half of the travellers could be persuaded to sit down and rest in such solitude. The signal was given, and all but the two boys were seized and strangled by the people who had been appointed for the purpose, and were now at their posts ready for action. The boys were taken by Jowahir and Kehree, who intended to adopt them as sons; and the bodies of the twenty-five persons were all thrown into a ditch and covered with earth and bushes. On seeing the bodies thrown into the ditch Jowahir's boy began to cry bitterly; and finding it impossible to pacify him or to keep him quiet, Jowahir took him by the legs and dashed out his brains against a stone."

The following incident shows the extraordinary numbers in which the thugs on occasions collected:—

"I was informed of a still more frightful murder which took place close under Gawilghur, a very few years before, of *five hundred recruits* that had come from some place for Gawilghur and were pitched in tents for some reason or other below the fort. Somehow or other a quantity of treasure for the fort for the night halted in this camp, and shortly after about one thousand of *apparently* discharged sepoys came up and said they were from Hindoostan and wanted service, and encamped at night in the same place, but in the morning there were none to be found of the latter; the rest were all lying strangled and the treasure gone."

These thugs always carry with them a pickaxe, looked on as sacred, with which to dig the graves of their victims:—

"Thugs bring up all their male children to the profession, unless bodily defects prevent them from following it. The method observed in initiating a boy is very gradual; at the age of ten

or twelve years, he is first permitted to accompany a party of thugs. One of the gang, generally a near relation, becomes his tutor, whom the child is taught to regard with great respect, and whom he usually serves in a menial capacity, carrying a bundle and dressing food for him. Frequently the father acts as preceptor to the son. In the event of being questioned by travellers whom he may meet, the boy is enjoined to give no information further than that they are proceeding from some one place to another. He is instructed to consider his interest as opposed to that of society in general; and to deprive a human being of life is represented as an act merely analogous and equivalent to that of killing a fowl or a sheep. At first, while a murder is committing, the boy is sent to some distance from the scene along with one of the watchers; then allowed to see only the dead body: afterwards more and more of the secret is imparted to him, and at length the whole is disclosed. In the meantime, a share in the booty is usually assigned to him. He is allowed afterwards to assist in matters of minor importance while the murder is perpetrating; but it is not until he attains the age of 18, 20, or 22 years, according to the bodily strength he may have acquired and the prudence and resolution he may have evinced, that he is deemed capable of applying the 'dhote,' nor is he allowed to do so until he has been formally presented with one by his tutor. Such is the effect of the cause of education strengthened by habit, that thugs become strongly attached to their detestable occupation, and rarely if ever abandon it.

"A thug leader of some note told me that if his life were spared he could secure the arrest of several large gangs. Seeing me disposed to doubt his authority upon a point of so much importance, he requested me to put him to the proof; to take him through the village of Schoda, which lay two stages from Saugor on the road to Seronge, (and through which I was about to pass in my tour of the district, of which I had received the civil charge), and he would show me his ability and inclination to give me correct information. I did so, and my tents were pitched, where tents usually are, in the small mango grove. I reached them in the evening, and when I got up in the morning he pointed out three places in which he and his gang had deposited at different intervals the bodies of three parties of travellers.

"A pundit and six attendants murdered in 1818 lay among the ropes of my sleeping tent; a havildar and four sepoy's murdered in 1824 lay under my horses; and four Brahmin carriers of Ganges water and a woman murdered soon after the pundit, lay within my sleeping tent. The sward had grown over the whole, and not the slightest sign of its ever having been broken was to be seen. The thing seemed to me incredible; but after examining attentively a small brick terrace close by, and the different trees around, he declared himself prepared to stake his life upon the accuracy of his information. My wife was still sleeping over the grave of the water carriers, unconscious of what was doing or to be done. I assembled the people of the surrounding villages, and the thanadar and his police who resided in the village of Korai close by, and put the people to work over the grave of the havildar. They dug down five feet without perceiving the slightest signs of the bodies or of a grave. All the people assembled seemed delighted to think that I was become weary like themselves and satisfied that the man was deranged;

but there was a calm and quiet confidence about him that made me insist on going on ; and at last we came upon the bodies of the whole five, laid out precisely as he had described ; my wife, still unconscious of our object in digging, had repaired to the breakfast tent, which was pitched at some distance from the grove, and I now had the rope of the tent removed, and the bodies of the pundit and his six companions in a much greater state of decay exhumed from about the same depth, and from the exact spot pointed out. The water carriers were afterwards disinterred, and he offered to point out others in the different graves, but I was sick of the horrid work and satisfied with what he had already done. The gangs were pursued and the greater part of them taken ; this informer's life was spared."

The following remarks by the late General Sir William Sleeman, are I consider of great value and force still, even though the atrocious trade of thuggee has by the department he organized been almost exterminated :—

" But it must be admitted that this evil has prevailed in our own provinces as much as in Native States ; and if I were called upon to state any simple cause which has operated more than any other to promote its extension, I should say it was the illogical application in practice of the maxim, that ' it is better ten guilty men should escape than that one innocent man should suffer.' It is no doubt better that ten guilty men should escape the punishment of death and all the eternal consequences which may result from it, than that one innocent man should suffer that punishment ; but it is not better that ten assassins by profession should escape and be left freely and impudently to follow every where their murderous trade, than that one innocent man should suffer the inconvenience of temporary restraint ; and wherever the maxim has been so understood and acted upon, the innocent have been necessarily punished for the guilty. In a country like India, abounding in associations of this kind, and with every facility they could desire to promote their success, and with little communion of thought or feeling between the governing and the governed, the necessity of prosecuting gang robbers and murderers, with such a maxim so understood and acted upon, is often found to be a greater source of evil to the families and village communities who have suffered, than the robbers and murderers themselves ; for the probability is always in favor of the criminals being released, however notorious their character and guilt, to wreak their vengeance upon them at their leisure, after the innocent and the sufferers have been ruined by the loss of time and labor wasted in attendance upon the courts to give unavailing evidence.

" It is a maxim with these assassins that dead men tell no tales ; and upon this maxim they invariably act. They permit no living witness to their crimes to escape ; and therefore never attempt the murder of any party until they can feel secure of being able to murder the whole. They will travel with a party of unsuspecting travellers for days and even weeks together, eat with them, sleep with them, attend divine worship with them at the holy shrines on the road ; and live with them in the closest terms of intimacy, till they find time and place suitable for the murder of the whole. Having in the course of ages matured a system by which the attainment of any other direct evi-

dence to their guilt is impossible, they bind each other to secrecy by the most sacred oaths that their superstition can afford; and such associations never desire from any Government a clearer licence to their merciless depredations, than a copy of the rule 'that the testimony of any number of confessing prisoners, shall not be considered a sufficient ground to authorize the detention of their associates'; for if the confessing prisoners escape the laws of the country, they are put to death by the laws of the association. To suppress associations of this kind, in such a country and such a society as those of India, a departure from rules like these, however suited to ordinary times and circumstances, and to a more advanced system of society, becomes indispensably necessary; and as they have matured their system to deprive all Governments of every other kind of direct evidence to their guilt but the testimony of their associates, it behoves all Governments in order to relieve society from so intolerable an evil, to mature another, by which their testimonies shall be rendered effectual for their conviction, without endangering the safety of the innocent."

In this province, thuggee is supposed to have been introduced, toward the close of the last century, by a man belonging to one of the lowest castes amongst the Sikhs; a "Muzbee," who it is said learnt the secret crime from some Hindoostanee thugs at the great fair at Hurdwar, the sacred bathing place on the Ganges, where many thousands of pilgrims congregate annually. The system as practised in the Punjab was devoid of the peculiar ceremonies and language used by the thugs of Hindoostan.

The system prevailed all through the early history of the Sikhs, and up to the date when English rule having been established the attention of our Government was drawn to it.

The person who is supposed to have been the original founder of the system was caught and hanged by the late Maharaja, Runjeet Sing; but the disciples of this first "thug" were very numerous when the "Thuggee Department" for the suppression of this fearful crime commenced operations at Loodiana in 1848.

As in Hindoostan so in the Punjab, the thugs were everywhere protected by those land-holders amongst whom they resided, and who shared their plunder.

The late H. Brereton Esquire, Bengal Civil Service, in his report on thuggee in this province says:—

"A District officer, can through his police, arrest a known resident of any town or village in his jurisdiction, but it is a different matter when

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the apprehension of a wandering character is required. The thugs as a class have no fixed residence, and are harboured by the lumberdars (land holders) on the understanding that as thieves and vagabonds they pay for such protection, and commit no robbery in the village thus sheltering them. At the sight of a policeman, or rumoured approach of a party from the thana (police station) these men move off, and as the chances are that the names by which they have been known at their temporary residence are different from those recorded in the list furnished by the Thuggee office, the lumberdars can safely deny all knowledge of them."

The only system therefore of working successfully against such systematic crime, is that introduced by the late Sir William Sleeman, namely that of approvers, their confessions being of course tested as much as is possible, and received with much caution.

Major McAndrew, Deputy Inspector General of Police, in charge of the thuggee office in 1862, *reported* in that year that fifteen dead bodies had been found, of which eight were evidently the victims of thugs: he observes:—

"It is evident therefore that although put down so far as organized bands are concerned, the crime still exists; and that the old and hardened thugs still at large try their hand now and then at their old trade. Seven old thugs were arrested during the year by the departmental detectives."

To show how strongly rooted in the thug, is the love of the excitement attaching to his criminal pursuits, I may mention, that a thug who had been an approver in our thuggee establishment for some six years, (becoming apparently weary of his monotonous life under our treatment), escaped in 1864 from jail; and though he was only three months at large, managed to poison, according to his own account, nineteen persons, of whom the cases of three who died were clearly proved against him, and for which he was hanged. So insatiable in this man was the furor for this fearful pursuit, that he told the jail officials when last captured, "you had better hang me for I must go on killing."

POISONING.

| | | | | |
|------|----|----|----|--------|
| 1860 | .. | .. | 41 | cases. |
| 1861 | .. | .. | 50 | " |
| 1862 | .. | .. | 37 | " |
| 1863 | .. | .. | 34 | " |
| 1864 | .. | .. | 33 | " |
| 1865 | .. | .. | 42 | " |

" POISONING.

From the Police report for 1861 :—

"The facility with which vegetable poisons are obtained; the ease with which they can be mixed with the ordinary food, without causing suspicion; and the sudden insensibility of the victims, tend to make the detection and conviction of the offenders a matter of considerable difficulty.

"In particular instances it has been detected amongst men calling themselves either *prohitis* or *brahmins*, and who profess to arrange marriages; the victim is induced to accompany them to the residence of the party desirous of making the marriage, and is poisoned and robbed on the road; death does not always ensue."

By Major McAndrew, then in charge of the thuggee office :—

"This crime as stated in last year's report has evidently taken the place of the former method of strangulation, and occupied the particular attention of the department. 12 cases of poisoning evidently by professional criminals have been reported. In two cases with fatal effect, In the other cases, the parties, 17 in number, to whom poison was administered, recovered.

"The suspected murderers by poison, of two men in the Loodiana district, were recognized as *old offenders*; also parties arrested on suspicion in the Sirsa, Rohilk and Mooltan districts, proving that the crime of poisoning is one followed by professional thugs.

"The most remarkable case of thug poisoning which has been taken up and prosecuted by this department was that of Mootsudee, the *Brahmin* poisoner of the Kangra district, whose arrest was mentioned in my report of last year; he was found guilty of seven distinct charges of murder and suffered the extreme penalty of the law at Dhurmsala in March 1862, having confessed to the murder of (19) nineteen persons.

"If other criminals of the same stamp still frequent that part of the country, they will have to abandon the marriage contracting *plant*, and take to some other means of deluding and enticing away their intended victims. The people of the hill states have now been put fully on their guard against poisoners; there was a great deal of talk and excitement regarding Mootsudee's case, particularly among the numerous friends and relations of the people he had murdered. In investigating the case, I was surprised, seeing that his appearance was known to so many parties, and that the police had frequently been placed on the alert, how he should have for so many years escaped detection, as at intervals of a few years he revisited the same parts of the country, and under the same pretence of marriage contracting, enticed away and murdered people.

"It is surprising how easily these poisoners get into intimacy with parties of travellers to whom they attach themselves, and how they gradually, by making themselves useful in many little ways, bring about their great object, cooking and eating together; when the deadly '*datoora*' is quietly slipped into the food, and the unsuspecting traveller is plundered and left dead or senseless. I have observed in several cases, that parties who recovered from large quantities of *datoora*, were rendered useless for life from the effects

of the poison: one man was brought to me a perfect cripple, in which state he had been for (7) seven years, from the effect of poison given him by Mootsuddee. The pursuit after the poisoners did not commence till 1855, but little was done until 1858; altogether 64 persons have been arrested on charges of poisoning."

It will be recollected that in the brief sketch of "thuggee" it is shown that poisoning by "datoora" was practised by the regular thugs so far back as 1810, as a kind of preliminary to strangling their victims. As they got bolder the use of poison was uncommon, but now; there is an evident tendency to use it again, not preparatory to strangling the victim but simply to plunder with safety.

The following case, taken from Police report for 1865, illustrates the way in which poisons are used, and the difficulties of detecting the poisoner:—

"On the 23rd April two men were found lying senseless at a well close to the Gorinda police station on the grand trunk road, twelve miles from Umritsur, and were sent in for treatment; the Civil Surgeon gave his opinion that they had been poisoned by 'datura' and treating them for that poison, succeeded in bringing them round.

They stated that they were inhabitants of Hoshiarpore, and had come to Umritsur for work on the Railway; that at a serai (way-side inn) near Umritsur, they had been joined by a one-eyed person who introduced himself as one Heera, and who recommended them to accompany him to Lahore where coolies were better paid. They accordingly did so, and on the road bought some flour at a bunniah's shop, Heera buying some dal at the same time with the goor (a coarse kind of sugar) and other spices. Towards mid-day they agreed to stop at the well where they were found, to cook their food. Heera commenced to cook the dal, and sent one of the two others to fetch some water, and the other to knead the flour at the well; when their cooking was over, Heera made them eat of the dal, contenting himself with the atta cakes and goor: just then the owners of the well who had been working in their fields drew nigh, to rest during the heat of the day. Heera proposed to move on, and on the other two refusing to do so until later in the day he went off (no doubt he did so knowing the poison would soon act and that he could not rob them in so public a place as that wherein they then lay). They laid down to sleep, and remembered nothing more until they recovered their senses in the hospital; they were taken before a magistrate and their evidence recorded, but the magistrate in his order said he was of opinion that the police could not do anything more towards the conviction of any one; all endeavours to find Heera having proved fruitless. On the 13th May, Mr. Christie, Assistant District Superintendent, when attesting the bad characters of the Narowal subdivision (38 miles distant from the scene of the poisoning case) found a man named Jotee Kahar absent from his village. On enquiry, it was elicited that he was an incorrigible rover, and on Mr. Christie's questioning the people he found that the description given by them exactly

tallied with that given of Heera by the two men who were drugged. He therefore directed the lumberdar (head man of the village) to look out for the return of Jotee, and to make him over to the police. Jotee was thus apprehended on the 27th July, and on the 2nd August was recognized by the owners of the well where the two men were found, as being the same man they had seen with them. The two men could not be found for some time, but at last were found at Mooitan, (250 miles off) and on their arrival were separately shown some 18 one-eyed men, amongst whom Jotee was placed, and both without hesitation picked him out as the man who had drugged them.

"Jotee, alias Heera, was sent up for trial and convicted by the Sub-Judge on the 3rd October and sentenced to four years' imprisonment, (a sentence I consider far too lenient for a man who thus trifles with human life).

"Jotee was a known bad character, having three former convictions against him for theft. A little before the commission of the above offence a man named Gusseetoo had been drugged in the Goordaspore district on the Umritsur road. He was himself in jail for theft, but was sent for and identified Jotee out of 25 one-eyed persons as the man who had drugged him. Jotee has therefore been again put on his trial in the Goordaspore district, and three other cases of a similar nature have since turned up against him there, for which he is now pending his trial in the Umritsur Sessions Court as a professional poisoner on three separate counts."

DACOITEE.

"From reports by Major Tighe, Deputy Commissioner of Umballa, and Major McAndrew, formerly Assistant in the Thuggæ Department and now Deputy Inspector General of Police :

By Major Tighe :—

"Dacoitee has it may be said lain dormant in the Cis-Sutlej, since the execution of Bhugail Singh and others at Loodhiana in 1852; and hardly a case appears to have occurred for years in the British jurisdiction, with the exception of a remarkable one in Loodhiana city in January 1856, when a small party entered a merchant's house in the city, carried off a small box containing jewellery and some money, and got clear off without blood-shed or wounds or before an alarm was given, and left no trace behind them. This case has up to this day never been discovered; but from the information subsequently obtained it would appear to have been committed by the remnant of the above named notorious Bhugail Singh's band, who having taken refuge in Bikaner, in concert with a few of the Bikaner plunderers, made this solitary expedition into their old haunts. This dacoitee was not followed up by any increase in the British States; and certainly up to 1859-61 there were no cases in these states or indeed generally in the Punjab, of course excepting the frontier where the dacoitees are of a different nature.

"But although dormant it was not by any means extinct; the snake had been scotched by the execution of Bhugail Singh but not killed; the Bikaner refugees, relieved from the surveillance of the special Thuggæ Department at Loodhiana, (abolished in the interim) gradually returned

to their old haunts, and formed the nucleus of a gradually extending band, which by degrees became a regular organization divided into four gangs."

The return given by Major Tighe shows that in 1859, these gangs which contained two or three of Bhugail Singh's band, began working in Foreign States, and perpetrated the following dacoitees :—

| | |
|---------|--|
| In 1859 | one in Foreign States. |
| 1860 | five in ditto |
| 1862 | four in ditto |
| 1863 | one in British territory. |
| 1864 | five in Foreign States and one in British territory. |
| 1865 | one in Foreign States and two do. do. |

Major Tighe thus describes their mode of working, &c. :—

"Owing to the intelligence of the leaders and the great care taken by them that no property shall be forthcoming, it is most improbable in any case that evidence beyond that of those concerned can ever be obtained. The ordinary proceedings are all carried on in a systematic and regular manner.

"Of the 30 or 40 men concerned in the principal dacoitees, certainly as a rule not more than one-third are professional dacoits, making dacoitee a living: the remainder are young men of the neighbourhood distantly connected with one or other of the old hands; they are not generally of notorious bad character, but men accustomed to hang about fairs, and noted for wrestling & other sports. The leader having fixed with the principal members of the gang the likely place for a dacoitee, generally two or three days' march from the first meeting place, and always in another jurisdiction, disperses his head men, who again assemble after three or four days at a fixed spot in the desired direction, each bringing with him some two or three less experienced hands: the band thus augmented is dispersed during the day: they assemble at night in some favorable spot a few miles off, generally (with a view of mis-leading subsequent inquiry) beyond the place to be attacked; here they distribute the arms, fix spear-heads, prepare mashals (torches,): at about half past 10 or 11 they proceed to the attack: arrived about 3 or 400 yards from the house they deposit under some tree or spot they can easily find again, their clothes, shoes and bundles, and then settle themselves into the approved dacoit costume: they leave their pugrees or turbans with the clothes, retaining the doputta or inner turban worn below the regular turban; the beard and whiskers are covered with the "dhata," a small piece of cloth coming under the chin and tied on the top of the head over the doputta. This with the 'kach' or short drawers peculiar to the Sikhs completes the costume. All being dressed exactly alike with only the eyes and nose to be seen through the 'dhata,' and not a particle of beard or whisker visible, they almost defy recognition in spite of the flaming torches (mashals) which they freely use

in searching. Having reached the house, and gained an entrance, nearly invariably by scaling the roof, they leave a few of the gang to watch below, and the main body, dropping into the inner courts, surprise the inmates.

"The men are kept apart and the women stripped of their jewels. As a rule the plundering is done politely, and the instances of ill-treatment are uncommon; while all this is going on an alarm generally is given in the village, and by the time the dacoits are finishing, a crowd has collected; they are kept in play for a time by the leader declaring they are the Government police investigating a case of *concealment* of arms, or some criminal charge; at last the booty is collected, the leader gives the signal and all the men simultaneously leave, as they came; if resistance is offered by the villagers, arms are at once used, and blood shed. But as a rule the country being disarmed, they are allowed to pass quietly away; having picked up their clothes the whole party in a body go at a good pace for some 3 or 4 miles; on reaching a suitable spot one of the leaders spreads a sheet and the whole gang are subjected to a rigid search. The booty is collected in 2 or 3 bundles and entrusted to 3 or 4 of the party; a rendezvous is named, generally some 40 or 50 miles off, and again in a different jurisdiction, where at some future day revision is to take place; in some few cases only, the cash is divided on the spot.

"In the interval the leaders endeavour to dispose of the valuables; on the appointed day they produce the cash they have received for the jewelry and the whole is divided, the leaders getting the greater share. In cases when the jewelry has not been disposed of and has gone into the melting pot, it is broken up and pounded so as to become almost indistinguishable, and then weighed out in shares. When possible however these shares are repurchased by the principal men from the young hands, who receive cash only; as a rule the division is made in cash. There is as usual little honor among thieves, and the lion's share falls to the old hands, who getting some 3 or 400 rupees worth, give the young hands from 15 to 20 rupees a piece only.

"The above description with but slight variation answers for a description of any one of those dacoitees; and the distance at which the property is disposed of is one of the most serious difficulties thrown in the face of the police."

Major Tighe shows by genealogical tables how the gangs are connected with the old "stock," and how the members of each gang are connected with each other by marriage, &c. proving indisputably that the crime is hereditary and followed as a profession from father to son.

Nearly all the leaders of note are now in custody, some 130 professional dacoits having been captured since 1864; and whilst many have been sentenced there is evidence to convict many more. Major McAndrew observes:—

"In 1862 there were 142 registered dacoits still on the list; of this number many had died and others had left the country or were known to have taken to cultivation, &c. Latterly as the crime

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seemed to be put down the pursuit was relaxed, and beyond taking heavy security, judicial punishments were not frequently enforced; but the dacoits felt that they were watched, and that the approvers their old associates were available to recognize them, and they entertained a great dread of the thuggee department. When this department was abolished in 1862-63, the measure was not long unknown to the members of the old dacoit band, in whom still existed a strong desire to return to a career of excitement and plunder."

From the Police report for 1865 :—

"Murder in dacoitee—one case occurred in the Umritsar district : it was a regular dacoitee on the old plan ; but every man concerned was, after some weeks, captured and prosecuted to conviction.

"The statements made by Esur Singh and the villagers were extremely exaggerated, with respect to the number of dacoits, their arms, behaviour and the amount of property plundered, the latter being stated at Rs. 5,420. From investigation on the spot the following facts were elicited ; a dacoitee had been committed by a gang of some 8 or 10 men armed with sticks and spikes, the only sword employed was one they secured from plaintiff's house ; that they had, as soon as the villagers had retired to rest, rushed on the plaintiff's house, which is at a little distance from the village, placed sentries on the approaches to it ; lighted torches and broke open the doors with hatchets, and then laid hands upon what they could get ; they then retreated and were followed up by the plaintiff and villagers who tried to capture some of them : in the fight which ensued plaintiff's arm was broken, and a servant of his hit over the head and struck down senseless (from the effect of this blow he died in hospital, soon after). The dacoits succeeded in getting clear off, leaving only a hatchet and turban behind.

"It appeared from the evidence that the dacoitee was planned by Nos. 1 and 2, who each agreed, in order to avoid detection as as much as possible, to bring a party of his own, strangers to each other ; thus making it necessary for one of each party to be arrested before the gang could be discovered, and then only by his confessing.

"Accordingly No. 1 brought Nos. 4 and 7 : No. 2 brought 3, 5 and 6. As before noted, all were captured and convicted."

From Police report for 1865. In-road by dacoits from the Khetree State :—

"On the 12th November 1865, the bullock train cart was stopped and plundered of English piece goods, gold lace, and other property to the value of Rupees 2,809, annas 4, pies 6, on the Delhi road, about seven miles east of Rohtuk, by a band of nine dacoits armed with large clubs and knives, and mounted on six fleet riding camels.

"There were seven strong able bodied passengers in the cart, but they appear to have been paralysed by fear, and made no resistance, but allowed themselves to be gagged and tied to the cart wheels with their own turbans. Three of the passengers were natives of Shekhwatee ; and it is note-worthy that they were neither plundered nor ill-used by

the dacoits, who accompanied the bullock train cart from one of the suburbs of the city of Delhi known as 'Taleewara.' The dacoits were vigorously pursued by the police, but being well mounted on camels trained to go long distances at a rapid pace, they managed to effect their escape to their lair in the jungle of Bud-bur, Bohana, in the Khetree district (Shekhawatee) of the Rajpootana State.

"The dacoits broke through the strong Customs line with its large hedge and numerous watchmen, receiving apparently no more opposition than the hedge itself offered.

"The police ascertained the names of the leaders of the band. The Puttiala officials through whose territory the marauders fled gave every assistance, joining in the pursuit and keeping up with it to the last; but as the Khetree Raja would not afford any aid whatever, the attempt to capture the gang failed. These dacoits are a regularly organized band; and are said to plunder, from time to time, in districts of the North Western Provinces in the direction of Agra.

"Now as regards the prevention of these in-roads from foreign territory, we are at a great disadvantage; our enemies can not only select their time and place, but have their agents in Delhi and Bhewanee, the two chief places between which valuable property is sent, and by those means they are enabled to plan and attempt a dacoitee with almost certain success. They know that once in Rajpootana they are quite safe. Puttiala vigorously hunts them out, but not so Rajpootana: there they apparently are absolutely and positively safe. The Khetree officials refused to do anything."

"The Commissioner, Mr. Naesmyth, in this case observes:—

"The daring dacoitee which occurred near Rohtuk towards the close of the year, committed by a band which was traced to Khetree in Shekhawatee is still under investigation by the district authorities. The unsettled state of Shekhawatee is a constant source of annoyance; numerous representations have been made on the subject to the political agent, and to some extent of late years there is improvement; but no certainty can be felt, no assurance of security from the raids of these lawless gangs, who appear not only to be unrestrained in any way by the native authorities, but are actually sheltered and protected when pursued by our police."

PROFESSIONAL SWINDLING.

Regarding professional swindling, it is perhaps sufficient to remark that the offence is by no means rare, and is persistently continued in until the parties are arrested. One very common mode of swindling by this people who wander about the country, is by pretending to be able to change copper into silver or gold, &c., or to double the value of all money intrusted to them. Here, as elsewhere, they trade on the credulity of the people, rarely swindling to any very great extent on one occasion, but living entirely by swindling, and by petty thefts of any thing they can pick up.

COINING.

Coining is an offence which though not as yet practised to a serious extent, is yet known to be constantly attempted, and requires great vigilance on the part of the police.

The number of cases of counterfeiting and passing into circulation counterfeit coin, or fraudulently diminishing weight of coin, &c., during the last years are shown thus :—

| 1860 | 1861 | 1862 | 1863 | 1864 | 1865 |
|-----------|------------|------------|------------|------------|------------|
| <u>95</u> | <u>246</u> | <u>163</u> | <u>146</u> | <u>134</u> | <u>141</u> |

CATTLE STEALING.

Cattle stealing in this province and in parts of the North Western Provinces, is carried on under certain systematic arrangements, but the police of both provinces have to a great extent broken up the various organizations, and narrowed so to speak the limits of the trade.

These statistics show how it has fluctuated in this province :—

| | 1860 | 1861 | 1862 | 1863 | 1864 | 1865 |
|-------|--------------|--------------|--------------|--------------|--------------|--------------|
| Cases | <u>5,712</u> | <u>7,394</u> | <u>4,368</u> | <u>3,387</u> | <u>3,959</u> | <u>4,275</u> |

The crime prevails chiefly in our large grazing tracts, where herds of 5 or 600 head of cattle are often in the charge of one or more boys ; but it also prevails along our lines of rivers. A river police has to some extent checked the trade, but not effectually, for it is still possible and must be possible for a herd of 30 or 40 to be driven off into a stream, made to swim down as they often are 20 or 30 miles to destroy all tracks, then crossed over and driven off long distances to where sales can be effected. The crime of cattle stealing is as yet not looked on in this province in any other light than cattle lifting was in Scotland two hundred years ago ; the only disgrace attaching to it, is that of detection. Wealthy, and apparently respectable land-holders, readily deal in stolen cattle. It is essentially an offence which is hereditary and carried on from father to son amongst our

nomadic races. No doubt the way in which large herds are left to the care of one or two boys leads to many petty cattle thefts; for instance if a cow-herd loses a cow, and fails to track her up and find her, he at once takes the first opportunity of stealing one to replace her.

But admitting these subsidiary causes it is certain that the offence is regularly carried on, and is in fact amongst certain classes a "trade." Such classes rarely commit other offences, but in these cases they indubitably are "habituals," and so habitually addicted to it that it is well known an old and worn out father of a cattle stealing family will willingly give himself up and declare himself to be the thief in a case, in order that the younger members of his family, sons or relations, who are the guilty parties, may escape, and carry on the trade which their imprisonment might check or even stop.

OUR CRIMINAL TRIBES.

I will only notice a few of the most celebrated; but this province like other parts of India possesses numerous races greatly addicted to crime.

In 1856 the Judicial Commissioner of the Punjab wrote to all Commissioners:—

"It has been determined to adopt coercive measures towards certain classes notorious as robbers and plunderers in the Punjab, and I request you will see that the measures sanctioned are fully and completely carried out."

And to the Secretary to Chief Commissioner:—

"The Commissioners are unanimous that coercive measures should be adopted with regard to them. In these opinions I concur."

Restrictive measures similar to those enforced in 1852 against the Muzbees (amongst whom thuggee existed) were ordered to be imposed on all Sansees, Harnees, and Bowreeahs.

These measures obliged them not to be absent from their villages without leave, and punished them if they were.

In 1858 E. Prinsep Esquire, Bengal Civil Service, originated a scheme for collecting certain members of known

criminal tribes, locating them on good lands, and obliging them to obtain a subsistence from agriculture.

By the exertions of Captain Urmston, Mr. Macnabb, and Captain Mercer, these measures were carried out: villages were created called "reformatories;" lands, grain, seed, cattle, implements of agriculture, &c. were all given; wells were sunk; many land-holders helped; the members of the tribes found in three districts were collected, located, and ordered to keep to their own lands and to cultivate it.

I was called on by the Government to report on these reformatories; and last year, aided by Mr. Prinsep, Bengal Civil Service, Commissioner of "Settlement," who has always taken the greatest interest in, and given the most cordial support to, all reformatory measures, carefully examined and reported on them.

Though in this treatise I only intended to notice these criminal tribes with a view to showing how necessary it is to have repressive yet reformatory measures applied to them, and that any country which possesses such tribes ought to recognize in its laws the *reformatory treatment* of offenders, yet as it may perhaps be useful I give the following extracts from a printed report by Mr. Macnabb, and from my report.

The two tribes subjected to these measures are the Sausees and Pukheewars.

By Mr. Macnabb, Deputy Commissioner of Sealkot:—

"The following account is that most generally current as to the origin of the Sausees and Pukheewars.

Sausees. Thieving tribe. In the reign of Sher Shah, Hira 809, Tagrul, Soobah of Bengal, finding no other sport, set his dogs &c. after some jungle men; they ran off, leaving a new born babe; one of the servants picked it up, saying 'Sans hai' (it breathes), hence he was called 'Sansee.' Babe grew and married, but preferring the raw flesh of cats, jackals, or any game to civilized life ran off to the Punjab and put up at Dodowal in the Sealkot district. Since then his descendants have lived in mat huts, near some village or other, never associating even with each other. They have no religion, and no geneological tree; in fact, they have always remained jungle men, living by the chase or thieving. They have only lately ceased eating raw flesh; the only distinction among them is, some burn, some bury their dead, according as they have lived near Hindoo or Mahomedan villages.

Pukheewars, Mussulman thieving tribe, but more civilized than the Sansees. In the reign of Feroze Shah II., a khidmutgar of the king, by name Razicheya, of the caste Buttecara (who keep cook shops), having stolen some royal property, fled from Delhi to the Punjab, and found no refuge from his pursuers till he came to a Sansee hut, where he was concealed till pursuit was over. He married the daughter of his protector, and having been accustomed to live in gardens supported himself by going about among the gardens when the fruit was ripe 'pukka' and carrying it about for sale; hence he was called 'Pukheewala' since corrupted into 'Pukhewarra.' His descendants have remained in separate tribes, though they inter-marry. They follow the calling of their ancestor, adding that of thieving inherited from their Sansee mother.

"The Sansees are more troublesome as thieves than the Pakheewars on account of their greater boldness. The latter, although very daring in their attempts at burglaries, make off at the slightest noise. The Sansee is always ready to resist with his lattee (stick). A very common form of Sansee crime is to creep up to women when sleeping, wrench off their ornaments and trust to their extraordinary fleetness of foot for escape. This they will do even in enclosed compounds.

The two most serious cases which have occurred this year will serve to show the sort of men they are. Five men, three of whom were Sansees, as were probably the other two, apparently having news of some Khutrees on their way to Jummoo came in from the Goordaspore district, some 10 miles. They were armed with lattees (heavy sticks) but finding the Khutrees on the alert gave up the affair apparently meditating some other attempt. The Khutrees however had told the police, three of whom had soon come to where they were sitting. The Sansees fled, but three of them finding only one pursuer turned on him and left him senseless on the ground. The other two being over-taken by two policemen had a fight with them, one got off, but the other was taken after being wounded in several places.

"Again, four Sansees of the Umritsur district came over the border and lay in wait for three Khutrees, also on their road to Jummoo, with money in their belts to buy goods. They rushed out of some high corn, armed with clubs as the Khutrees passed; two of the latter ran off; but the third after a long struggle was robbed, his ear-rings being torn out of his ears and himself severely beaten. Two of these men were convicted, and I have little doubt of the guilt of the third, though the evidence was not sufficient for a conviction."

From the Police report of 1861, the following is extracted as also illustrating the daring character of these Sansees:—

"Jhungan, son of Essar, a Tegawal Sansee and resident of Goordaspore district, had *often* been imprisoned for theft; but it was not till 1860 that he came into notoriety, when he with Ditta and Mutwalia Sansees, carried off from Jummoo territory a young Brahmin bride on the day of her marriage, taking her to a village in the Goordaspore district, and making her over to one

Moostaka, a Khutree, who happened to be a friend of his, and was in want of a wife. After this Jhungun forsook his village, and lived in the caves and ravines with which it is surrounded; Ditta and Mutwala keeping him company. They lived by robbery and soon became the terror of the neighbourhood. On the night of 23rd December 1861, Jhungun with his brothers Sawun, Ragho and Phaungun, armed with tulwars, fell upon an encampment of Banjaras (professional carriers) near Baga village, and robbed them of all their merchandize, wounding several severely. Ragho and Phaungun were apprehended; Jhungun and Sawun still continued at large.

"Nehallee, Jhungun's mistress, in man's costume, and Bhotoo, wife of Muggur Sansee (in jail at Umritsur), used to keep guard on the heights, and give notice of the approach of any suspicious party.

"Deputy Inspector Baijnath was set to work on the case, and in four days succeeded in gaining over Ditta and Mutwala. This was done through the instrumentality of two Sansees who had a personal grudge against Jhungun.

"Jhungun still supposed Ditta and Mutwala to be his friends, and was persuaded by them on the 25th January to give a dinner to a party of Sansees, with whom he had a quarrel concerning the disposal in marriage of Nehallee, Ditta's sister, whom Jhungun had retained; Jhungun assented, and gave Ditta two rupees to buy food. Late in the evening Nora Sansee came to the station house and informed Baijnath, Deputy Inspector, that Jhungun and Sawun, with the two women Nehallee and Bhotoo, had assembled at Essur's (Jhungun's father's) hut in the ravines near Shahpoor, and were preparing for the feast. Deputy Inspector Baijnath proposed starting at once with a small party of constables, and lying in wait near the spot where they were about to dine, but Nora and Nikkoo advised him not to come till they should send a messenger to say that time for action had arrived; accordingly, Deputy Inspector Baijnath waited till 8 o'clock in the evening, when Jowala and Lynah, Sansees, came up, saying that Jhungun was busy talking sitting in the middle of a group of Sansees, and that Ditta and Mutwala were seated on either side ready to grapple with him, as soon as the police should come in sight. Baijnath started and found things as had been stated. On his arrival, Ditta and Mutwala at once seized Jhungun, who tried to use one of the two tulwars which he had at his side, but failed, only slightly wounding Ditta on the knee; he also fired a matchlock, which he had in his hand, but without wounding any one. The police then secured Jhungun and Sawun, and took them off to the station house. Sawun was also armed with a tulwar when captured.

"On the 26th Deputy Inspector Baijnath brought his prisoners to the District Superintendent's camp at village Eklaspore, by whom they were sent off to station house Nyna-kote; here they stayed the night, and proceeded next morning to the sudder under an escort of one sergeant and three constables, secured with a handcuff and leg-iron. When they arrived at village Buddial, about 2 miles from Nyna-kote, Jhungun complained that he could not walk with the leg-iron. The sergeant accordingly had it cut off by a blacksmith of the village. The prisoners therefore, only secured by one hand-cuff, again proceeded on their way. When they arrived at Nuggur Moodiah village, about five miles from Goordaspoor,

Jhungun, watching his opportunity, suddenly jerked the hand-cuff off Sawun's wrist, (his hand was small enough to admit of the hand-cuff slipping over it) and after girding up his clothes and challenging the guard to race with him, leaped a hedge which bordered the road and made across an open tract of country towards the town of Bhyrampore, about five miles from Goordaspore. One constable stayed with Sawun, who did not attempt to run, and the rest of the guard made after Jhungun, who however soon out-stripped them, being a capital runner, and was eventually lost sight of.

"The District Superintendent was with the Deputy Commissioner when he got notice of Jhungun's escape, and with his advice sent mounted constables to raise the villages on the Shamal or right bank of the Ravee, and also issued proclamations offering a reward of 100 rupees for his capture. The District Superintendent rode to Goordaspore, and taking eight mounted constables with him, worked up every village from Bhyrampore round by Narote to Shamal, but without avail. For six days no traces whatever of Jhungun's whereabouts could be discovered. During this time, through Ditta Sansee, some five or six houses in different villages were searched, and a pair of pistols, also a kinkhab choga, with numerous other articles of clothing (all spoils of Jhungun's former robberies in the Jummo territory) were found, and the parties in whose possession they were discovered, were sent up for trial.

"On the 7th day after this, it was rumoured that Jhungun had been seen lurking about his father's hut near Shahpore Bhungoo; from this moment fresh enquiries were set on foot, and it was discovered through Sabhoo, Ditta's mistress, that Jhungun visited two Sansees of Khumnea village, named Nehalah and Wuliah, formerly servants of his, who looked after his herd of pigs. The District Superintendent sent for these men, and after considerable difficulty induced them to betray Jhungun. They agreed, if possible, to inform the police of his meetings with them; these took place, however in the middle of the day, and Jhungun was so wary, that even while talking to them he never stood in the same place for two minutes together, and would not allow Wuliah or Nehalah to come near him, making them put down what food they brought and then move away. He did not inform them either where he stayed the night, simply replying, on any such questions being asked him, that it was no business of theirs.

"Nehalah at last reported, that he had persuaded Jhungun to come to the house of one Bishna, Sansee, of his (Nehalah's) village. For four successive nights Baijnath with a small party of constables lay concealed in Bishna's hut, but Jhungun did not make his appearance. Baijnath began to suspect that Wuliah and Nehala were misleading him. He had heard from Oomree (Jhungun's sister) that her brother constantly put up with Buktawur, the son of Bunna, Lumberdar of Khurral village, about four miles from Shahpore Bhungoo, and also with Napa, Lumberdar of Buggoolra. The great difficulty in catching Jhungun was owing to the way in which he was sheltered by Lumberdars, or other influential men of the surrounding villages, who took heavy tribute for the lodging they afforded him. Deputy Inspector Baijnath therefore sent for Buktawur and made him promise to assist him in Jhungun's capture.

"Buktawur went off and returned next day, saying that he had met Jhungun, who had told him that the country was getting too hot for him, and that he intended making off to the Jummoo territory; also that he was going to pass the night with a Brahmin named Gunda of Joombean village in the Shamal division. Deputy Inspector Baijnath went off to Joombean, taking Buktawur with him; on arrival it was discovered that Jhungun had stayed with Gunda's nephew, Goorsaon (committed to Sessions since, under Section 216 of the Penal Code). Goorsaon's house was searched, and the identical stick which Buktawur had given to Jhungun the previous day, was found in the roof of his house. Goorsaon admitted that Jhungun had been to his house, and that he had been introduced to him by Dheroo, Sullotree of the same village, who had asked him to try and convey Jhungun to Dewa Vuttala in the Jummoo territory. Dheroo confirmed this statement, and said that most probably Jhungun would come again that night, 29th February. Baijnath accordingly hid himself in the cow house adjoining Dheroo's house; that night nothing turned up, and the Deputy Inspector returned to his station house disappointed. He however tried another plan: hearing that Jhungun frequently laid hands on lone women he met, he sent out a young constable dressed up in petticoats. Then again Jhungun always allowed any sort of fakeers to approach him, and constantly gave them money, &c. Constables dressed as fakeers were accordingly sent out, but with no avail.

"On the morning of the 21st, Nora Sansee brought notice that he had just seen Jhungun conversing with Nehala and Wuliah Sansees among the ravines of Shahpore Bhungoo. Baijnath immediately started off on horseback, taking a stick with him; when Jhungun saw him approaching, he tried to run, but finding the horse gaining on him, turned and confronted Baijnath with a drawn tulwar in his hand. Baijnath succeeded in guarding several cuts with the stick he had caught up on starting, and at last with a well directed blow felled the Sansee to the ground, when he was secured by such constables and Sansees as had followed. In the struggle Baijnath was wounded on the right hand, and his stick all cut to pieces; his horse was also wounded in the face.

"This second time every precaution was taken, and Jhungun arrived all safely at the sudder. While being escorted thither old and young of every village he passed through rushed out to see him, and on his arrival at Goordaspoor the whole bazar turned out *en-masse* for the same purpose. Such was the sensation he had created."

The following extracts are taken from my report dated 28th July 1865:—

"The reformatory and repressive measures in force against these tribes are as follows:—

I. The tribe being collected from all parts of the district, is located within a walled enclosure or village called a 'Kot,' on ground suited for agriculture, or which is absolutely under cultivation..

II. Sufficient assistance is intended to be given by the Government and by private parties to enable the tribe to exist until the fruits of its own labors are adequate for its support.

III. The members of the 'Kot' are not allowed without permission to be absent from the 'Kot' at night; and any member who absconds is liable to punishment. During the day they may go where they like.

"At first the tribes loudly protested against being compelled to work for a livelihood, and endeavoured by every possible means to avoid so doing: they resorted to all kinds of tricks to get permission to again disperse and live all over the district; when an European officer visited them they simulated starvation and sickness, and on one occasion even death; but the corpse got up and fled when the officer proceeded to examine it. They spent their days wandering about begging in the neighbouring villages, or hunting for game or lizards, or other reptiles: to procure the luxury of tobacco or any inebriating liquor they would barter away to the shrewd "Bunneah" the prospective value of what little crops they had raised; so long as they were free from sickness they managed to live fairly enough, nearly as well in fact as they had before they were put into 'Kot,' but directly an individual, or, as sometimes happened, worse still, a whole family was prostrated with sickness, and unable to go out and beg, *then* the full force of previous improvidence was sorely felt. The reformatories suffered severely from an epidemic, a low kind of fever which ravaged parts of the Punjab.

The statistics show the mortality to have been as follows. From March 1864 to March 1865, 892 souls died out of a population of about 2,273, or nearly 39 per cent.

"This low fever I must observe, whenever it visited a village, generally pressed more heavily on the low caste members of the community than on others; and this is attributed to the low castes feeding on the carcases of animals which had died of disease, and on other descriptions of impure food. Moreover it must not be supposed that our own villages were free from it, or our own jails; apparently it has been a very general scourge in these districts, and though I have not the information to prove it, yet I have no doubt it has prevailed throughout the Punjab in our jails and in many of our districts.

Mortality in our jails in districts around Sealkote:—

| | | | |
|------|---|----------------------|--------------|
| 1863 | { | Sealkote, | 10 per cent. |
| | | Lahore, | 13 97 |
| 1864 | { | Sealkote, | 0 52 |
| | | Goojranwalla, | 17 66 |
| | | Umritsur, | 14 25 |
| | | Lahore, | 11 03 |

"The same kind of low fever prevailed in Scotland in the beginning and end of 1864. The Registrar of Scotland, in his report for 1864, observes—"there is nothing in the meteorological phenomenon of the year to account for the great epidemic of typhus which prevailed. It attacked large masses of the people in the early months of the year, abated in the warmer season, but again resumed its virulence in September, and increased more and more till the year closed."

"In one Kot the epidemic appeared in 1865, and in all the others but one, which was quite free from it, the epidemic appeared as in Scotland in the early part of 1864, and was again virulent in the latter part of the year and in the beginning of 1865.

"As a rule the 'Kots' are over crowded, and the houses not large enough to contain the people. The Sansees do not care much about this, they are so accustomed to huddle together, covered with the most filthy rags, that unless prevented they *will* sleep in a hut in far greater numbers than is at all healthy.

“Possibly in the cold season the want of clothes tends to this huddling together; but the Sansee will never spend his money on clothes if he can help it; like all thieves in every part of the world he is passionately fond of jewelry, and will deny himself clothes to get it.

“In addition to the evils of over-crowding, as tending to induce sickness, the *habits* of the Sansees must not be forgotten. If not constantly looked after, they will allow filth of all kinds to accumulate within the enclosure, up to the very doors of the huts. This has occurred no doubt very generally. There is no reason why we should not succeed in securing to these people as good a chance of health under the ‘Kot’ system as is enjoyed by the villages around; of course great care should be taken to secure healthy sites.

“Their chief enemies are their own filthy habits, they recover quickly from sickness and improve rapidly under ordinary sanitary rules. There is no doubt that owing to the increase of the inhabitants the lands allotted to these ‘Kots’ will not in a year or so be sufficient to support them; as yet they had in three of the ‘Kots’ not enough produce to support them, taking an average rate of one seer of atta (wheat) per diem to an adult male or female, and $\frac{1}{2}$ seer (one pound) for each child. This is a point needing serious attention: the help they have received from the people cannot be expected to continue, and that of the Government should if possible *not* be conveyed in the very objectionable mode of giving food without receiving *work* for it. I deprecate giving more land than is absolutely needed to support the present inhabitants, considering them as villages; and I would not make any provision in *land* for children which may be born after the limits in land of a ‘Kot’ are once fixed and each family has received its share. Their descendants should and must manage to support themselves, as do those of former agriculturalists.

“In some of the ‘Kots’ the lands have been subdivided amongst the families comprising these ‘Kots’; each family having its portion; but this has not been done in all, and I do not think where it has been done that each family sufficiently clearly knows the actual fields that belong to it. I attach great importance to the creation of this interest in the soil. The family will give its labor far more willingly for what it is to reap entirely for itself, than for that which is to be for the general benefit, and of which it will only receive a portion. The old saying, ‘what is every man’s work is no man’s work’ applies fully to the Sansees, and the cultivation will not be effected ‘*con amore*’ until each man feels the fields he cultivates are his own.

“The labor of manufactures is apparently more repugnant to these people than that of agriculture; nevertheless an attempt has been made to get them to make rope, taut, &c., and these efforts might be advantageously extended.

“The attempt, the original design, has by no means been a failure. The fact remains that in spite of many difficulties, in spite of great sickness, scarcity of food, and land requiring hard labor to get a crop from it, the possibility of getting thieving tribes to attempt their own support by agricultural instead of criminal pursuits, has been placed beyond a doubt; it is for us to perfect and carry on what has been attempted, that success may be rendered sure and continuous.

“Their character is decidedly improved, and in some ‘Kots’ they have really adopted clothes in addition to a mere loin cloth; and as I myself saw with agreeable surprise, those clothes in the case of two or three

of the head-men were positively clean. Crimes are stated by the Deputy Commissioner to have decreased since these tribes were thus collected in reformatory villages. Schools are in full work amongst them; the scholars—boys and girls—examined before me showed quite sufficient ability to give very great encouragement to this most important part of the reformatory treatment.

"I do not advocate the attempting towards these tribes such a reformatory system of control as I should certainly strongly recommend to be enforced in all juvenile reformatories; but I consider we owe it to ourselves, to them, and to the community amongst whom we have located these criminal tribes, to establish over them such supervision as shall to the best of our judgment lead to their reformation and to the peace and security of the country. It is no slight responsibility which the Government has undertaken; but I may note as worthy of attention that the Government commences its labors with the great advantage of having all these people in families, the very system which at 'Mettray' is found to be so absolutely necessary."

Mr. Macnabb, Deputy Commissioner of Sealkote, in his report of 1862, observes:—

"In the reformatories the Pukhewars are the more troublesome of the two; they have a stronger disposition to wander, but both they and the Sansees have shown such an evident disposition to take advantage of the opportunities afforded them by the reformatories that I have no doubt of their soon taking to settled ways of life.* The whole of the Pukhewars have not yet been brought into the reformatory, but only those who held little or no land. The agricultural portion of the Sansees have only been brought in within the last two months (August 1862); but notwithstanding this the police returns for April, May and June show that crimes have decreased to 173 in thefts and burglaries, as compared with 307 in the same quarter last year. The country people are delighted with the new arrangement. The Commissioner was told when lately in the district that, 'now professional thieving was being put a stop to.' If there were any waste land in the district, I would most earnestly urge that arrangements might be made for the remaining Pukhewars, also for all 'Chooras' of doubtful character.

"When in charge of the Jhelum district in 1858 I was most anxious to have a reformatory for the Chooras of Kala. I hear that the Kala thieves are still in correspondence with the budmashes (bad characters) of Zufferwal."

The following notice by M. H. Court Esquire, Civil Service, and Inspector General of Police North Western Provinces, of professional criminals and criminal tribes, is interesting and instructive:—

In the Meerut districts the *Delhiwal Bhowreeahs* are found in considerable numbers. Their profession is stealing from tents. Leaving their villages after the rains, they wander over all India in small gangs,

* Last year 1865, I found a Pukhewar reformatory much more flourishing than any of the Sansee Kots, thus verifying Mr. Macnabb's supposition.

attaching themselves to the camps of regiments, officers and native chiefs, returning with their plunder in April and May. Nominal registers are formed of every man of the tribe, and of the village chosen by them for residence. Occupation is provided for such as want occupation, by giving good culturable land for tillage in the Bidowlee ilaqua, in the Mozuffernuggur district. This land is given rent-free for the first year, and at small rental for following years. They are not compelled to settle here, but they have the offer of doing so, that they may not have the excuse of being driven to crime in order to support life. Wherever resident, they are warned that, if found absent and at a distance from their homes, without ostensible or known means of life, they will be prosecuted for being members of a professional tribe of thieves. Scarcely less troublesome are the *Sunoriahs*, a tribe inhabiting several parts of the Lullutpore district and the Duttia territory. From time immemorial they have followed the sole profession of thieving, but in the course of years, probably from the fact of their always marrying in and in, and exclusively in their own tribe, their numbers diminished, and they recruited themselves by the purchase of children of other castes: 'Thakoors,' 'Aheers,' 'Kunjars,' 'Telees,' 'Kachees,' and 'Chumars,' indiscriminately. These children were in their youth taught the particular branch of the profession of their adopted fathers, in which their assistance was necessary, and were made use of by the 'Sunoriahs' to effect their projected thefts. When they outgrew the age in which they could be useful as apprentices, they, in their turn, became master thieves. They choose some large city not less than 100 miles distant from their homes as their field of operations, and set out for it in gangs of about 60. When they get near it they separate into smaller gangs, dress up the children as beggars, and others as rich and respectable men. The latter go to some well-known 'Sahoocar' and begin bargaining and looking at his valuable things; in the meantime the beggar comes up and manages to abstract some of the things. If he is found out the 'rich man' often persuades the shopkeeper to let him off with a flogging on account of his 'extreme youth and apparent poverty.'

"With a view to watching the *Bhudduks* in Goruckpore, a special police was located in that district in connection with a similar police in Gondah. It was discovered that the *Bhudduks* were not implicated in any of the dacoitee cases, though they are still a disreputable and most debauched race. Mr. Court considered that the *Bhudduk* settlement at Salikram in Goruckpore should not be allowed to dwindle away, as many of the *Budduks*, who were ejected from the police, resorted to it, instead of returning to forest-life and crime. Of other resident professional dacoits and thieves, the *Meenas* were now the most formidable, but they were not residents of these provinces, but of the Goorgaon district in the Punjab provinces, and in the foreign territory of Ulwur, and could not therefore come under the observation of the North-Western Province police. They are a formidable gang of dacoits, addicted to armed attacks on houses and on traffic carts; and they travel any distance in pursuit of dacoitee. *Aheriahs*, residents in Allygurh, Mynpoorie and Etah districts combine for highway robbery chiefly. The *Behliahhs* were found in Etawah and part of Cawnpore; *Bhowreeahs* in Cawnpore; *Passes* on the Ganges banks from Futtehpore to Allahabad, and thence on the border villages of Jounpore; and these were all resident criminals, who more or less, united for violent attacks upon property. In their own districts they were almost universally the village chowkedars, but not the less

habitually addicted to plundering elsewhere. The *wandering* tribes of professional criminals are large in number. The *Sanseeahs*, *Kunjurahs*, and *Harboorahs*, are the most notorious. The men scatter about in search of plunder. The younger women attach themselves to village proprietors and others, who give shelter and assistance to the tribe; and though search of the camp will seldom fail to recover stolen property, the only offenders to be found are decrepid old women or children, with whom it is impossible to deal, and the seizure of whom necessitates the care and keep of numerous donkeys, goats and dogs, which they invariably possess in considerable numbers. The *Sanseeahs* are addicted to the manufacture of counterfeit coin, in addition to thieving. The only way of dealing with criminal *tribes* seemed to be by detaching a police constable or officer to accompany and keep watch over their camps."

There are many other criminal tribes scattered through this province; amongst whom the *Goojurs* are probably the most numerous, and are addicted chiefly to cattle stealing. The *Bowrealhs* and *Harnees* are also numerous, but the *Meenas* are the most celebrated.

These men live entirely by dacoitee, and plundering expeditions carried on at long distances from their own houses; they work all over Central India, and from the southern-most part of the Punjab down to Bombay. The following extract shows their mode of operations, how widely spread are their depredations, and how systematically carried out.

Extract from a letter from Lieutenant Colonel J. C. Brooke, Officiating Political Agent, Jeypore, to Major General G. St. P. Lawrence, C. B., Agent, Governor General, No. 85-35J, dated 1st December 1862.

"6. The mode in which the *Meenas* proceed is as follows:—They leave their villages in gangs of twelve to twenty men, each gang under a favourite jemadar; and three or four jemadars, with their quotas, join together in most ventures. They remain away from their homes sometimes for a year or two; their beats are either towards Hyderabad in the Deccan, Malwa, or Guzerat. On arriving at a district, they spread themselves through the several towns, some in the disguise of fakeers or brahmmins, some as sellers of grass or wood, some as brick-makers, &c. They will steadily continue at the trade they have chosen for months, till they are considered residents of the place and find an opportunity of enriching themselves, when they all join and commit the robbery or burglary, and retire to their homes for the distribution of the booty.

"7. The families of the *Meenas* during their absence are fed by *bunyas*, who are paid on the return of the expedition. As the plunder is generally in bullion, the *bunyas* also make a large profit by the purchase of the booty at much below its value. It being difficult for the *Meenas* to convey through the country large sums of money, camels are frequently hired before starting, and the owner of a camel shares equally with the men of the gang. In one case (No. 12) the

Meenas, being unprovided with carriage, dressed up some of their number as Government chupprassees, and so escaped search; but generally speaking, the Customs officers of the Native States have to be bought over. On arriving at their homes the Meenas are liable to be imprisoned and squeezed of a portion of their illicit gains by the local district officers, thannadars, and others, who are well aware of the cause of their absence, and are on the look-out for their return. Thus all parties are interested in the success of the expeditions, whilst the Meenas seldom secure much for themselves; and from the way in which such property is acquired, it is quickly squandered. The Meenas are, therefore ever ready to start on fresh expeditions.

“8. The gomastahs and servants of the bankers who are robbed frequently connive at the robbery and share in the gain. In one case which lately came to my notice a Bhopal banker's gomastah, whose home lay in the Jeypore territory, engaged a gang of about 20 Meenas from his native village to rob his employer: he also took a bunya with the gang to supply them with food. The Meenas disguised themselves as jogees and fakeers, lived near the banker for nearly a year, so as to become well acquainted with the premises, &c., and took their food from their own bunya, who was paid for the same by the gomastah. The banker, however, treated the supposed fakeers with such kindness, that, when the time came, the Meenas positively refused to perpetrate any dacoitee on his property. However, as they had no intention of returning empty-handed, they committed a high-way robbery elsewhere, on their own account, the bunya who supplied food decamping with them. The gomastah informed against the Meenas, as they refused to give him a share of the venture they had themselves undertaken. Many others of the cases now reported are somewhat similar, but the above will be sufficient as an example of the system.

“9. On enquiry at Kote I was told that there were at least four or five gangs absent at this very time looking out for plunder: Dehoo and Jemah, two jemadars of Shajehanpore, are away towards Malwa or Guzerat; Dhokla, Jhep of Maunda, in Jonorawuttee, and Jora, have also gone in the same direction; Khema, son of Geedoo, is towards Hyderabad. Each gang has from 10 to 20 men in it.

“10. The Meenas who commit these raids inhabit an extent of country about 60 or 70 miles in length and about 40 in breadth, extending from Shahpoora, a town 40 miles north of Jeypore, to Shajehanpore, in Goorgaon. Their most noted haunts are Kote Pootlee in the Khetree State, Bhyrore, and Shajehanpore. The plundering Meenas are supposed to number about 1,400; of these, about 500, including some of the principal jemadars, reside at Shajehanpore and its neighbourhood, and about the same number in the Kote Pootlee district. There are about 300 at Bhyrore, Gazee ka Thannah, &c., and the same number in Neemka Thannah, Jonorawuttee, and Butteesca as the country about Shahpoora is called.”

MEENAS.

Extract from police report for 1865:—

“We have altogether 535 adult males in this district (Goorgaon), of whom when measures for their repression were commenced in June 1863, only 251 were present, the rest being reported as absent on predatory excursions. Now our list shows 384 present, and 151 absent; the absentees being thus accounted for:—

210 SPECIAL CAUSES IN INDIA REQUIRING REFORMATORY
MEASURES—"OUR CRIMINAL TRIBES"

| | |
|---|-------|
| In jail in various native states, | 90 |
| British territory, " | 10 |
| In "custody of Thuggee Department, | 18 |
| | <hr/> |
| | 118 |
| Still at large, | 33 |
| | <hr/> |
| Total, | 151 |

Those in jail in various native states are scattered through all the states, showing how large an extent of country they roam over. There are not more than 535 adult Meenas belonging to this province, and of these only 33 are unaccounted for. Besides those mentioned there are other tribes addicted to criminal pursuits, and also various wandering tribes of gypsies; these last, though not generally complained of, yet are known to lose no opportunity of pilfering, and are often of necessity placed under surveillance. Any detailed account of these tribes is unnecessary; the nature of the preventive measures which have been found necessary, tried, and proved to succeed to some extent, has been sufficiently described. The same measures have been I believe again tried in the North Western Provinces, and with advantage. As regards criminals from all classes in society, we had in 1865 under surveillance 46,117 persons, who had been convicted once or oftener of one or more of the following offences:—dacoitee, administering poisonous drugs, robbery, theft, house-breaking of all kinds, coining, kidnapping, bad livelihood. This is only the number of offenders ascertained by the police to be offenders: unquestionably, considering our criminal tribes, gypsies, beggars, vagrants &c., we have really very many more who do not live by honest pursuits. 6,979 persons convicted of one or more of the above offences were released from jail during the year and discharged on society; on the other hand 5,843 were released from surveillance.

The number of prisoners in our jails does not seem to decrease, the daily average in 1863 was 9,834.45, and in 1864, 9,502.41. I have not the report for 1865.

In 1863, 20,575 were received into the jails.
In 1864, 22,417 ditto, ditto.

In 1864, 718 juveniles were convicted of offences for which they were liable to whipping; of these 279 were whipped, 379 whipped and imprisoned, and 122 imprisoned. I feel sure this number, 718, does not fully represent all the juveniles either addicted to crime or even punished for it, but it is all our statistics show. The majority of these would have been much benefitted by good reformatory treatment instead of imprisonment and whipping. Taking our daily average in jail at 9,500, and at large as 45,000, we have 54,000 known offenders, of whom about 20,000 are yearly passing in and out of jail, and 9,500 permanently in jail.

Comparing our known offenders at large with England and Wales, excluding tramps and vagrants, of whom we have as yet no correct register, the returns show:—

| | | | |
|----------------------------------|----|-------|--------|
| Punjab known offenders at large, | .. | 1864, | 45,000 |
| England and Wales, | .. | 1864, | 84,817 |

Proportion to population.

| | |
|----------------------------------|-----------------------|
| England, population = 20,061,725 | or 4:1 offenders to, |
| | 1,000 people. |
| Punjab, | = 14,976,250 or 3 do. |

CHAPTER VIII.

CONCLUSION.

My task is now completed. I have endeavoured to show why it is desirable to profit by the experience of other countries, and to introduce into India such legislative, preventive and reformatory measures as in those countries have been proved to greatly tend to the prevention of crime and to the reformation of the offender. I have also shown at some length, the principles on which these measures depend, and the measures themselves, together with the opinions of all the most eminent of the authorities of Europe on this important subject. The duty of the State in every country has been most fully shown by the various authorities quoted in this work, and their arguments need not to be strengthened. The excellence of the principles and of the

measures has been proved by experience; the necessity of their introduction into India, I have attempted to prove, but freely admit that the attempt greatly needs the support of far more powerful advocates. I trust however that at any rate it may be the means of inducing others to give their aid towards the introduction into India of the principle, proclaimed in 1861 by the Right Honorable Thomas O'Hagan, Her Majesty's Attorney General of Ireland, "that for all practical purposes human law should deal with crime not to avenge, but to prevent and to reform." Or, as enunciated by the House of Commons in 1856, "that in addition to the *fixed* portion of the sentence considered to be the *minimum* period of atonement for the offence, it is necessary that there should be *another* portion of the sentence for the protection of the public."

It is that *other portion* which allows to the prisoner *hope* to ameliorate his sentence by his own exertions, and within which the effects of his former reformatory treatment are tested prior to his free discharge into society; and it is prescribed in order that proper protection may thereby be insured to society against those who are proved *not* to be reformed. Now as regards India, not only do we possess the same causes which in Europe are found to produce crime, (though as yet those causes may perhaps not prevail to the same extent) but in our criminal tribes, where crime is hereditary and systematically carried on from father to son, we possess additional causes.

It will be said that the populations of India are so scattered, that as yet they present no similarity to those of Europe; that crime in India is not either in nature or extent such as to require for the security of life and property any special reformatory measures for its suppression. It is true that our populations are scattered, and specially so the rural portions; but we possess large towns and cities where all the circumstances incidental to crime in towns in Europe are to be found, either full-blown or germinating. The extraordinary spread of that fearful practice "thuggee,"

(which even now requires an extensive establishment to be maintained for its prevention) shows what even our scattered populations can do; and the brief sketch I have given of its practices shows how necessarily stringent were the preventive measures adopted in its suppression. It is true we have suppressed it; though we are still obliged to maintain a special agency to keep it down; and some persons may argue from the success of this "Agency" known as the Thuggee Department, that the same preventive measures without any reformatory efforts would be sufficient for dealing satisfactorily with all our criminals. But are such persons prepared to hang, transport or imprison for life every habitual offender *who continues in crime*? For such was the treatment all thugs received (and justly) who persisted in thuggee. If they will do so, then I grant that the criminal will *indeed* be *incapacitated* from committing crime, and his reformation may, so far as security to life and property is concerned, be ignored. But society will not thus incapacitate for ever the habitual offender; it must therefore, if it desires immunity from his oft-recurring offences, take such measures as will tend to reform him. Now in very truth the Thuggee Department did to a very great extent also aim at reforming its prisoners; for it established industrial prisons; and kept within them, not only the thug but his whole family; it trained up the children in habits of industry; and the excellence of their manufactures are known throughout all India. Observe the wisdom of its practice; it incapacitated the thug during his life, but it did not thereby throw a whole family on the world to steal or to starve; it knew that unless cared for, the children infallibly would try and follow the father's practices, and so it took care of the whole family; kept up the humanizing and beneficial influence of family ties when freed from criminal influences, and no doubt did quite as much to suppress thuggee, if not more, by this care for the children, than was ever effected by hanging or transporting the parents. It must not be inferred from this that the reformatory efforts of the Thuggee Department were complete; but it did what it could, under the existing

circumstances: it incapacitated the thug and his whole family, and made them pay for their support so far as their labor could; and it allowed the men to earn money also for themselves and families. There are at present no proper arrangements for aiding the families of deceased thugs towards earning an honest livelihood: we have taken 16 thug boys into the police in the hope of thereby helping them to shake off the bad instincts attaching to their birth, but as yet the result is not so good as it might be; because their training and education have not been such as to produce really good results with some degree of certainty. Until the legislature will consent to imprison *habituals* for life or until they are reformed, and thereby incapacitate them from committing offences, rendering their reformation a matter not so directly affecting the interests of society, we must, if from selfish motive alone, endeavour to effect their reformation as well as their punishment before they are discharged into society. The habitual preys on society; he is constantly obnoxious to the security of life and property; society therefore is of necessity greatly interested in his being incapacitated, either by perpetual confinement or by mental reformation. The Recorder of Birmingham, Mr. Hill, writes in his report on the Irish system:—

“Keep your prisoners under sound and enlightened discipline until they are reformed; keep them for your own sakes, and for theirs. The vast majority of all who enter your prisons as criminal can be sent back into the world after no unreasonable term of probation, honest men and useful citizens. Let the small minority remain, and if death arrive before reformation let them remain for life.”

In the ordinary state of society under civilized and vigorous Governments, any constant increase of crime year by year may be clearly traced, as a general rule, to the increase of the criminal race, and not to any greater activity on their part.

For short periods crime often increases from various causes, but as those causes pass away so does the increase. Again, under civilized and vigorous Governments, as a rule, all open and violent offences against property should decrease,

and be kept well down by preventive measures alone; but as the criminal population increases, so crimes, though they will assume a less heinous form, will assuredly greatly and steadily increase year by year. This is, in the Punjab, to some extent shown by thuggee being supplanted by "poisoning," which has been taken to by those who no longer dare to carry on thuggee; and inasmuch as it is used not so much to produce death as insensibility, the victims often recover and so it may be considered a less heinous form of crime than *thuggee*. Offences not of a very heinous nature have I also, believe increased all over India during the last ten years, showing an increase in the criminal population. I have not the statistics to prove this, as regards all India; but for this province the following figures seem to support it. Owing to the Penal Code and its nomenclature not having been introduced prior to 1st January 1862, a comparison with earlier years cannot be made.

Taking 1862 as compared with 1865 we have:—

| | NON-BAILABLE, OFFENCES. | | | BAILABLE. | | |
|--------------------|----------------------------|--------|-----------------------|-----------|--------|-----------------------|
| | 1862. | 1865. | Increase per cent. | 1862. | 1865. | Increase per cent. |
| Frontier districts | | | | | | |
| Trans-Indus, ... | 3,021 | 3,895 | 28·9 | 4,337 | 4,778 | 10· |
| Cis-Indus, ... | 18,813 | 20,623 | 9·6 | 18,493 | 26,854 | 45· |

Value of property stolen and recovered:—

| | <i>Stolen.</i> | <i>Recovered.</i> |
|----------|----------------|-------------------------|
| 1862, .. | 7,08,975 | 2,87,003 = 40 per cent. |
| 1863, .. | 7,11,284 | 1,93,738 = 27 " |
| 1864, .. | 8,94,340 | 2,47,734 = 27 " |
| 1865, .. | 9,61,827 | 3,08,134 = 32 " |

Our violent crime, with the exception of a sudden out-burst by dacoits in 1864—nearly the whole of whom have been captured—has not become of a more violent character, but petty offences have largely increased.

The statistics of the Central Provinces show that the criminal classes are taking more to the perpetration of lesser offences, and abandoning the greater. The Chief Commissioner observes :—

“As regards the state of crime the first noticeable circumstance is the decrease of all kinds of the most heinous and dangerous offences :— these have fallen from 323 in 1864 to 265 in 1865 ; the decrease being 17 per cent. The next noticeable circumstance in the report is the progressive increase of the lesser crimes, chiefly against property.

“Last year the Chief Commissioner pointed out various reasons for supposing that if a part of this increase may be nominal still a large part is real. If the increase merely arose from improved reporting it would be more general than it is ; whereas it is very diverse, being found considerable in some districts and not at all in others ; while in some on the contrary there is a decrease. You justly observe that this year's report abounds with facts tending to the same conclusion. The Judicial Commissioner also holds that there is a real increase. And in several districts the Deputy Commissioners allege that the distress arising to individuals from the rise of prices of food provokes crime.”

From the Police Report of Central Provinces.

| CENTRAL PROVINCES. | | | | 1864. | 1865. |
|---|--|--|-------|--------|--------|
| CLASS I. | Murder. | Thugs, | ... | 2 | 0 |
| | | Dacoits, | ... | 3 | 1 |
| | | Poison, | ... | 4 | 1 |
| | | For sake of robbery, | ... | 17 | 10 |
| | | Ordinary, | ... | 60 | 65 |
| | Attempt at murder, | Culpable homicide, | ... | 11 | 12 |
| | | Grievous hurt and aggravated assault, | ... | 13 | 15 |
| | | Rioting with deadly weapons, | ... | 26 | 21 |
| | | Do. Ordinary, | ... | 1 | 0 |
| | | Dacoitee, | ... | 30 | 29 |
| | | Robbery with hurt or deadly weapons, | ... | 33 | 23 |
| Robbery, | | ... | 32 | 17 | |
| Theft with preparation for hurt, | | ... | 54 | 39 | |
| Rape, | ... | 8 | 9 | | |
| | | 29 | 23 | | |
| TOTAL OF CLASS I. | | | | 323 | 265 |
| CLASS II. | Theft by house-breaking and house-trespass, | | 5,633 | 7,140 | |
| | Cattle theft, | | 1,125 | 970 | |
| | Ordinary thefts, | | 9,405 | 9,585 | |
| | Receiving stolen property, | | 426 | 542 | |
| | Mischiefs by fire, | | 29 | 17 | |
| | Coining, &c., | | 14 | 8 | |
| TOTAL OF CLASS II. | | | | 16,632 | 18,262 |

The table shows, serious offences—decrease,.. 21 per cent.
 Less ditto increase,.. 9 ditto.

Taking the Penal Code classification, the Police report of the Central Provinces shows :—

| | 1864. | 1865. | INCREASE. |
|---------------------|--------|--------|--------------|
| Non-Bailable, | 10,734 | 18,774 | 12 per cent. |
| Bailable, | 2,388 | 3,078 | 54 ditto. |

The Indian Penal Code includes under the heading non-bailable many petty offences; but still the comparison under its headings, non-bailable and bailable is useful, and shows that offences of a lesser nature are increasing in the Central Provinces as in the Punjab, at a greater ratio than the more serious. It is necessary to note here that in this province all offences reported are recorded as offences, unless by a magisterial order an offence is declared not to have occurred. This may often lead to offences being recorded that did not really occur; but the rule is necessary, and for all comparative purposes the returns are not affected by it.

If to the foregoing considerations, we add the fact, that the practical working of each of the various religions prevailing in India, does not produce as high a state of morality as exists in Europe amongst those ranks of society which by their position are above the ordinary temptations to crime, and that the moral tone of native society in India is infinitely below that of Europe, we see another cause tending, however indirectly, yet surely to affect the increase or decrease of criminals and of crime; a cause, moreover, which will not be checked by solely preventive measures. Man is an imitative animal; the lower orders naturally to some extent copy the higher; if a low tone of morality prevails amongst the latter, a lower still may be expected amongst the former. Perhaps some will be found to urge that as the religions of the governed never in India

are those of the 'governors, so as we cannot attempt to influence the minds of the criminal class by religious teaching, we may not hope for success in any reformatory measures. Now, without in the very slightest degree impugning the great effect on the mind of religious influence, on the contrary, acknowledging fully its immense value, yet it appears to me very evident (as has been repeatedly shown in this work), that there are certain measures which may with advantage be brought to bear on an offender no matter what his creed is : there are certain instincts universally implanted in human nature, which may be acted on ; and to take the lowest, *self-interest*, the Recorder of Birmingham, Mr. Hill, has shown how that is the first acted on at Metray, and how much it is appealed to. We all know how powerful an incentive it is, either to good or to bad conduct ; and I can see no reason why we should not work on it in this country, and endeavour to convince the prisoner how we can and will make it more advantageous to his self-interest to do good than to do evil. If we once convince him of this we shall certainly have considerably advanced towards inducing him to do good and abstain from evil. Elsewhere I have fully shown the admirable mode adopted in Ireland for producing this very conviction in the mind of the prisoner. He is convinced that it is the desire of the Government and the object of the prison treatment to reform as well as to punish ; he is made to feel the severity of the punishment surely inflicted on crime ; he sees that all around him wish him well and will aid him to do well ; he knows that after discharge if he endeavours to earn an honest livelihood he will receive sufficient aid to do so, but that if he persists in crime he will infallibly be soon caught and re-committed to a longer term of punishment. I have shown how Sir Walter Crofton individualized each prisoner, sought for the good which is so often to be found in men when least expected, and always treated men as if they had it, until he found they neither had it nor would receive it. The education aimed at inducing self-respect, and a love of honest industry ; and I may add, again quoting Miss Carpenter :—

"The total absence of religious bias in the administration of the prison laws and rules, both as regards officers and prisoners, and their promotions, has not failed to secure that respect and obedience which seldom attends partiality, especially in Ireland where the people are very sensitive in religious matters."

Now all these practical and I would say common sense measures may surely be enforced in the treatment of prisoners in India; and we need not abstain from all reformatory measures, because we may not force on our prisoners the Christian religion.

I have shown the reformatory and preventive measures in force against our criminal tribes; and there is no doubt, that in justice to the honest portion of our population, it is necessary (until all *habitual* criminals are subjected to restrictive measures of an effective kind) to exercise a surveillance over, and keep under certain restraints, those tribes which have been and are from generation to generation addicted to criminal pursuits, as a means of livelihood.

The principle was enforced with advantage in the North Western Provinces by Mr. Charles Raikes, when magistrate of Mynpooree, against the Bahilias, a thieving race. Mr. Court, Inspector General of Police North Western Provinces, fully carried it out against various tribes; and, as I have shown, the Board of Administration in this province instituted it against the Sansees and Harnees and other criminal races. But if this measure is found to be wise and necessary; if because a man belongs to a criminal tribe he is assumed to be addicted to criminal pursuits, (even though he may never have been convicted of an offence, or even known to the police as a criminal by repute), and is therefore subjected to the surveillance and restraints imposed on the whole tribe, *a fortiori* is it wise and necessary to enforce at least equally stringent rules of surveillance, &c., against those men who though they do not happen to belong by birth to any one of the known criminal tribes, are yet well known by previous convictions, by repute, and by their practice, to be *habitual offenders*. This is a point, which decidedly calls for legislative action. As matters now stand

the habitual offender when discharged from our jails can only be called on to give security for future good conduct; and if he cannot find it he is liable to simple imprisonment *without labor*. Practically this apparent hold over an habitual is of no use whatever. Many habituais can give the security out of their previous ill-gotten gains, or get other persons to be security for them; they then go off to other parts of the country, and though living by crime yet until caught and convicted are free from all restraint.

As a rule magistrates shrink from committing a man to prison if he cannot give security, and is merely charged as being an "habitual," or as being a man with no ostensible means of livelihood. If each habitual offender were on discharge subjected to the restrictive measures now imposed on our criminal tribes, and was punished if he resisted those measures; and if we had thoroughly efficient systems of registry for all offenders, and second offences were punished in all cases more severely than first offences, and so on; we might with justice relieve our criminal tribes from the unenviable distinction they now possess; tending as it does to destroy the growth of self-respect; and we might keep under proper restraint all *habituals*, no matter of what class, and without reference to their parentage.

Amongst the various measures noticed in this work, the following at any rate appear to be such as may be advantageously and without difficulty introduced into India:—

I. The legislative action; whereby, as before explained, the principle of "hope" is allowed to all prisoners, habitual or casual.

II. Individualization; whereby each prisoner is treated individually, and has his progress to liberty, which depends on himself, tested by the system of *marks*, for industry and good conduct.

III. The separation of habituais from casuals; not only in the treatment they receive by law, but in our jail arrangements.

IV. Such a system of jail discipline that one prisoner will not have the opportunity as at present of contaminating the other. One main feature in the system being the providing *separate sleeping cells* for *each* prisoner, whether habitual or casual: *facts* having proved that if this is not done great evil and contamination do result, amounting even to unnatural crime. The present system of prisoners sleeping together in one long ward is a great and a crying evil, producing all kinds of immorality, and utterly destroying any good or deterrent effect in jail discipline.

I cannot too strongly urge this practical measure. No question of expense should for one instant be allowed to delay it.

V. The introduction of the system of the intermediate stage and the *ticket of leave*.

VI. The employment of adults of the laboring classes who reach the intermediate stage, on public works.

VII. The establishment of industrial buildings for the manufacturing classes who reach the intermediate stage.

VIII. The proper supervision of all prisoners, after discharge, with an efficient system of registry, including the use of photography, so that the previous career and offences of a prisoner may be known when brought to trial.

IX. The establishment of agricultural colonies and reformatory establishments for juveniles.

X. The establishment in connection with each jail of an industrial house for the benefit of discharged prisoners, or of the honest poor who seek work but cannot find it.

XI. The allotting of a portion of the Government Educational grant to the establishment of schools for low caste children, especially those of the classes described.

XII. The establishment of industrial feeding schools on the principles proved to succeed in the United Kingdom; such institutions being specially valuable to rescue juveniles not yet guilty of offences before they join the ranks of crime.

XIII. The extension to all "*habituals*" of special restrictive measures, without reference to whether they are members of a criminal tribe or not.

XIV. The extension of our reformatory measures to all criminal tribes which, like the Sansees, &c. can, as has been shown, be collected, located together, and obliged to live by agriculture; but such measures to be placed on a thoroughly efficient footing, especially as regards *supervision* by suitable officers.

XV. Hard labor to form a part of all sentences.

XVI. A proper system of aid to discharged prisoners.

XVII. Proper provision by law for all beggars, vagrants, &c. and for the *poor*, in every large city; so that begging may be with justice made punishable by law—the measure to be extended to small towns &c. according to the necessity.

XVIII. Statistical returns of crimes for all India, so as to show the practical working of our laws and preventive measures; and to admit not only of comparing province with province, but with the returns of the United Kingdom:—such returns being perfectly possible and by no means difficult to arrange.

It will be said that these measures will entail a greater expense than the country can afford: no doubt the expense at first starting as regards buildings will be considerable, and subsequently as regards establishments; but I conceive each Local Government might wisely be empowered to introduce within certain limits local taxation to meet say a moiety of these expenses, and to relieve the imperial exchequer of one-half the expense.

The principle seems to me most just; of course local circumstances regulating the extent to which it is carried out. So long as the management remains with each Local Government, and is not too much trusted to local managers, I think the people should be given a share in the management, and every encouragement to take an interest in the measures. Their aid to all discharged prisoners is of course imperatively necessary, and judging from the support they

gave to the Sansee Kot scheme, and from their general character, I feel sanguine of their not failing us in this matter. It is most important to develop as much as possible the action of the people themselves, but we must not risk the success of such great measures on the independent action of a number of local boards, free from Government control and direction. If these great measures are introduced we shall at any rate be doing what is possible, to reform the criminal committed to our jails, and may certainly expect not only to do much good, but to reap great advantage therefrom.

The actual expenses I have alluded to will I believe be more than repaid by the reduction in the number of our prisoners, and consequently in the cost of prosecution and jails.

For the last six years it has been my desire to see these measures introduced. In the Police report for 1862, I drew attention to the Irish system; to the necessity of efficient registry and surveillance of habituals; and to statistics. I urged the adoption of the measures found so advantageous in Ireland. In 1863 I went to Ireland, personally examined the working of its penal measures, also those of Mettray in France; the Irish system of police; that of England, and its reformatory measures. Three years further experience compels me but the more strongly to urge the recognition in India of those reformatory principles which I then urged and now again advocate.

In 1862 I then reported, vide Police report of that year :

"In the United Kingdom the necessity of close attention being directed to the class of *habitual* offenders, has been fully felt; the greatest efforts are now made to ascertain the effects of prison discipline on these classes; and to carry out such a continued system of prison discipline and police surveillance, that the offender shall if possible be reclaimed, and if not, that society shall be protected from him. The effect of prison discipline must ever be a subject of the greatest interest to a police officer; indeed the prison and police authorities, experience has proved, succeed best when working together in the closest accord."

Sir Walter Crofton observes, on this point :—

"From what has been stated, it will I think be evident that it is within our power to remove the national blot of having it annually

recorded, that very many thousands of *habitual offenders* are making crime their vocation; and are setting the law at defiance by means of their immunity. That by an *united* and concurrent action against crime, on the part of penal legislation, prison system and police action, such a course is not only practicable but that it is very far from being difficult. Let things remain as they are and crime will multiply again and again; our convict prisons and their cost will increase; and the *action of our police* and reformatory schools be to a great extent nullified."

Habitual offenders certainly in this province have not decreased in number since 1862. In that year I reported that the police were specially directing their attention to two great points:—

"I. Such a knowledge of habitual criminals that it shall be hardly possible for one of that class to be sentenced by a magistrate without the magistrate after convicting the prisoner being duly informed of the antecedents of the said criminal; the object being to ensure a longer sentence then would otherwise have been passed. The opportunity to the Jail department of the long sentence being theirs to turn it to the benefit of society, by doing all they can to reform the prisoner.

"II. Such surveillance over habitual offenders out of jail, that whilst the offenders shall be aided to try and earn an honest livelihood, society shall be protected from their depredations."

We then had under surveillance 33,001 offenders. In 1865, we had 46,117 under surveillance. It must not be supposed that the whole of those under surveillance are habitual offenders. Many have only been convicted once; and directly it is ascertained that they have lived so long by honest practices as to be fairly considered reformed, they are struck off our rolls.

For instance, in this year (1865) 6,979 prisoners were discharged from jail, having been convicted of one or other of the following offences; and 5,843 were struck off our rolls as no longer requiring surveillance.

Released from jail 1865.

| Offence. | No. | Offence. | No. |
|-------------------------|-------|----------------------------|-------|
| Theft, | 2,839 | Dacoitee, | 12 |
| Ditto of cattle, | 1,142 | Poisoning, | 7 |
| Highway robbery, | 30 | Coining, | 33 |
| Robbery, | 25 | Receiving stolen property, | 582 |
| House-breaking, | 1,307 | Kidnapping, | 24 |
| | | Bad livelihood, | 1,175 |

I much regret that it has not been possible to show by statistics, how crime has fluctuated during the last 10 or 15 years in each province in India, or even in this province; but in truth the statistics so far as I can ascertain do not exist in such a form as to admit of a comparative statement being made; and certainly, as the new nomenclature of the Penal Code was introduced in 1862, it would be difficult to make any reliable comparison between crime 10 years ago and now. So far I freely admit, that I cannot strongly prove by statistics the necessity of reformatory measures; but on the other hand, let the many causes of crime which exist in this country be recollected, the prevalence of paganism, false religions, the low moral tone of the people, rich and poor, the reputed corruption attaching to the great majority of natives employed in our judicial administration, the want of confidence in our courts so generally felt by natives, and consequently the great extent to which crime is concealed by many sooner than suffer the loss of time and money attaching to a prosecution, when they are liable to be kept waiting, to receive little or no remuneration for their time and trouble, and to be in many ways subjected to inconvenience if to nothing worse. Consider again our numerous criminal tribes, our hordes of vagrants, mendicants, &c., who swarm at all the large fairs, sacred places, and at all large public gatherings, who are habitually addicted to crime, and of the number of whom owing to the wandering habits of many we have not even a correct estimate.

It is to me quite inconceivable that crime does not exist in this province, or in any part of India, to an extent which, considering the benefit of society alone, requires reformatory treatment. I feel sure that we do not yet know the full amount of crime which exists; and that with many of the causes known to exist in Europe and to produce crime (such as crowded populations in cities &c.), and also with many causes peculiar to India, it is a fact that crime does exist to an extent demanding reformatory treatment. But let us take a higher view, and as I submit the true view of the question; were there but one criminal in this province, it is our

duty so to treat that one man, that whilst we punish him we also help him to become a reformed character.

Lord Brougham last year at the Social Science Meeting thus spoke regarding England's reformatory measures :—

" Nothing can be more satisfactory than the proceedings last year with respect to the reformatory system, and credit is due to the Home Department, of which we had formerly reason to complain. The great changes which have been effected are entirely in accordance with the views often urged by the Association and its supporters. In the class of penal servitude ; the subdivision of large prisons ; the introduction of the mark system ; the reduction of the excessive gratuities, and of the dietary ; the use of photography ; and the giving police superintendence (beneficial not only to the public at large but to the convicts themselves) are great and important improvements ; and these, together with the use of intermediate prisons in certain cases, have approached our own system to the Irish.

" The great principle has now received full effect that the term of punishment should be lessened not merely by the convict's conduct since his imprisonment, but by his subsequent conduct, until the suspension now first actually exercised under the ticket of leave has expired. This suspension of his entire liberation has had all the success it could be expected from it."

Baron Von Holzendorf, whose writings I have already quoted, so briefly yet clearly epitomizes so many of the important points I am urging, that I repeat the extract once more :—

" In a few words, the Irish system unites in itself all the correct principles of previous systems of prison discipline, forming a thoroughly remodelled general organization, by means of which the convict, after a series of gradations, is led to liberty but *still kept in check* by the deterrent principle of supervision. By this means are reconciled the punishment of crime for the infraction of the laws, and the requirements of society, with the theories of benevolent and compassionate individuals, and the associations which have been formed for the assistance of the discharged offender. Only thus can be obtained true consciousness in the convict's mind, of the great injustice which he has entailed on society by his guilt. There still exists much ignorance as to the requirements of justice, and its relations with the object of reformatory discipline in carrying out punishment. Originating in, and founded on justice, the nature of punishment consists in discipline, and should never be otherwise used, than so as to serve the further development of the better qualities of humanity. The cause of punishment can alone be considered as an evil, and its effects should never produce any but good results ;—a system of punishment which produces *torpor and inaction in the mental faculties*, is just as unreasonable as the old exploded coercive treatment of the insane. The *accomplishment of justice* consequently requires the reformation of the offender, by such a system as enables the offender to perceive the necessity for his punishment, and the amount of his guilt ; and it is only by

penal discipline that the influencing motives of the judicial sentence can be re-produced. The reformatory treatment of criminals is indeed not always required, for there are some cases of found breaches of law, not otherwise criminal, in which it would be unnecessary to require a reformatory treatment. In such cases it is only necessary that the punishment should be a manifestation of deterrent justice, but it ought to be such as would neither *prevent moral progress, nor entail the danger of corruption by association.* Any punishment producing by its forms of discipline, *despair, revengeful and angry feelings, or which blunts the moral perceptions, or produces listlessness, is the greatest crime which a Government can commit, and is an outrage against religion, morality and law.*"

These true principles were shadowed forth more than a hundred years ago by Oliver Goldsmith, in his well known story of the Vicar of Wakefield--wherein he says:—

"It were highly to be wished that legislative power would direct the law rather to reformation than to severity; that it would soon be convinced that the work of eradicating crimes is not by making punishments familiar but formidable. Then instead of our present prisons which find or make men guilty; which enclose wretches for the commission of one crime, and return them, if returned alive, fitted for the perpetration of thousands; it were to be wished that we had as in other parts of Europe places of penitence and solitude, where the accused might be attended by such as would give them repentance, if guilty, or new motives to virtue, if innocent. These people however fallen, are still men, and that is a very good title to my affections. Good counsel rejected, returns to enrich the giver's bosom; and, though the instruction I communicate may not mend them it will assuredly mend myself. If these wretches were princes, there would be thousands ready to offer their ministry! but, in my opinion the heart that is buried in a dungeon is as precious as that which is seated on a throne. If I can mend them, I will; perhaps they will not all despise me. Perhaps I may catch up even one from the gulf and that will be a great gain; for is there upon earth, a gem so precious as the human soul?"

The Attorney General for Ireland, the Right Honorable Thomas O'Hagan, whose words I have already quoted, says:—

"There is no mystery about it, no startling application of any moral power. It carries to a further result the doctrines which have already had their application to some extent in England, and more largely on the continent of Europe, and in particular instances with special success, under Montesinos and Obermaier in Bavaria and Spain. It is not my province to judge how far it may be available in other lands; how far it may have had, as I think it has had, some peculiar facilities for fortunate application, from the circumstances of Ireland and the character of her people; how far there may be difficulties to overcome in applying it to larger prison populations, more deeply steeped in crime. These are questions of weight and importance, on which there may be difference of opinion. I am content to know that a great good has been done,

and a great example afforded; that careful effort, perseveringly pursued, has been found undoubtedly efficacious in the reformation of convicts and the diminution of crime; and that our country has reason to be proud of the achievement and grateful for the benefit it confers; and I am more than willing to believe that as 'of one blood God formed all the nations of the earth,' as we are endowed with the same nature, prompted by the same impulses, and stimulated or controlled by the same affections and desires; there is no good reason for supposing, that the experiment which has been so successful in Ireland should fail in other countries; or that, according to their various circumstances and necessities, they should not be able, *most profitably*, to apply the *principles* which have been so well tested here.

"Let no man say that those who are friends of reformatory institutions aspire after an impossible Utopia, or indulge in dreams of the perfectibility of our earthly state, such as deluded many in the generation that went before us. Whilst time lasts there will be poverty and sin. Society will need to resist its enemies and subdue them by stringent laws and heavy penalties. None know better than those who labor to improve it, how deceitful and wicked is the human heart. But we do not refuse, because we cannot make our world a Paradise, to strive for its amendment, and though amongst the young and the old we may not hope to, extinguish crime, which will surge or subside according to circumstances, we are surely bound to do what we can, that its evils may be mitigated and its sphere contracted."

I trust that this attempt to draw attention to this important subject, the reformatory treatment of offenders, old and young, may induce many persons to bestow on it their careful consideration and cordial support. Our present system of treating offenders, either in or out of jail, appears to me to be most imperfect in many of its measures, and positively evil in others; but, that it is quite possible to remove both the imperfections and the evils, and that it is our duty to do so.

I cannot but think that the treatment of prisoners in our jails is more calculated to contaminate and injure the morality of prisoners than to improve it, (especially by the pernicious practice of prisoners sleeping together in long wards); that it tends to ignore and therefore to blunt and deaden all the moral faculties; that it should do more than merely teach prisoners to read and write; and that it does not as a rule impart to the prisoner any other instruction of any kind likely to be of the slightest use to him morally or physically when

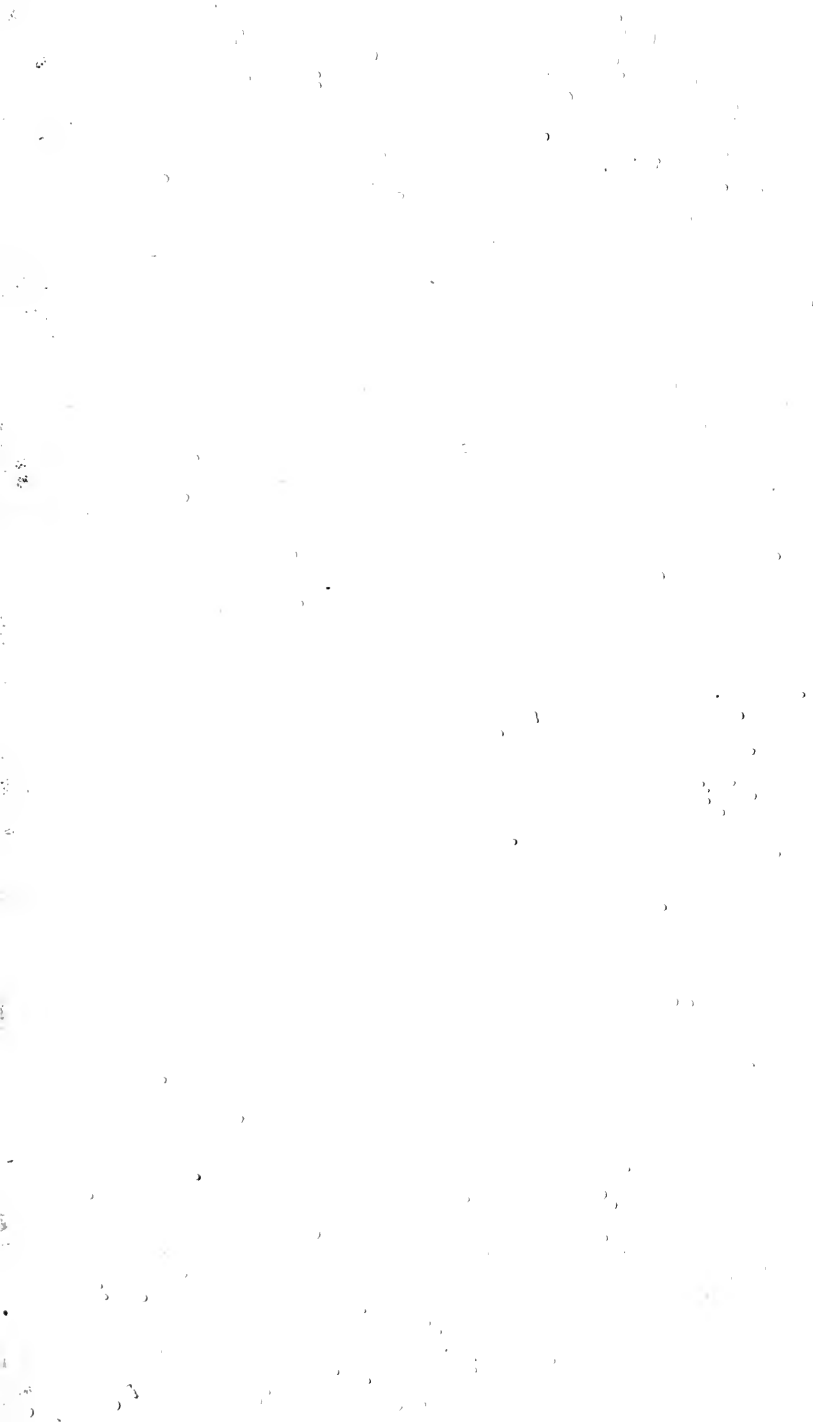
he is discharged from jail ; that its very system of strict restraint prior to absolute liberty is eminently calculated to make the prisoner who has been confined for any time, unfit to be trusted with the liberty into which he is thus suddenly thrust ; and, lastly, that it makes no effort whatever to aid or care for the prisoner when he is discharged.

The system in this province, and I believe in other parts of India, aims at being most humane and considerate in its treatment of criminals ; and in truth in some ways it is to be feared that the prisoners live too well ; but its treatment seems to aim at nothing beyond keeping the prisoners clean, healthy, well-fed, well-clothed, well-housed, under kind treatment, and in good condition ; all very good points in their way ; but something more is needed for the treatment of human beings ; lastly, it aims at obtaining a certain amount of labor, the produce of which sells well, and shows a good annual return, viewed as a financial speculation. Some years ago I caused careful inquiries to be made in every district, and in only one instance had a discharged prisoner attempted to earn his livelihood by working at the trade taught him in jail. I am aware that some part of the time of prisoners must be occupied in work which they cannot follow when discharged, specially those belonging to the agricultural classes ; but still, before a prisoner is discharged, opportunity may and should be found to instruct him in those pursuits which will benefit him on discharge. Jail discipline cannot be blamed for fostering idleness ; the law and not the jail produces this deplorable result, when it allows imprisonment, but *not* labor to be inflicted on vagrants, tramps, &c. It may be said that at any rate our system inculcates habits of industry and accustoms a man to work : certainly, if a man for many years has been forced to work a certain number of hours a day, he may have acquired the habit of working, from the same cause that a horse in a mill acquires the habit of constantly moving round in a circle ; but as during that period he has had no share in the produce of his labors, no inducement to be industrious, to take an interest in his

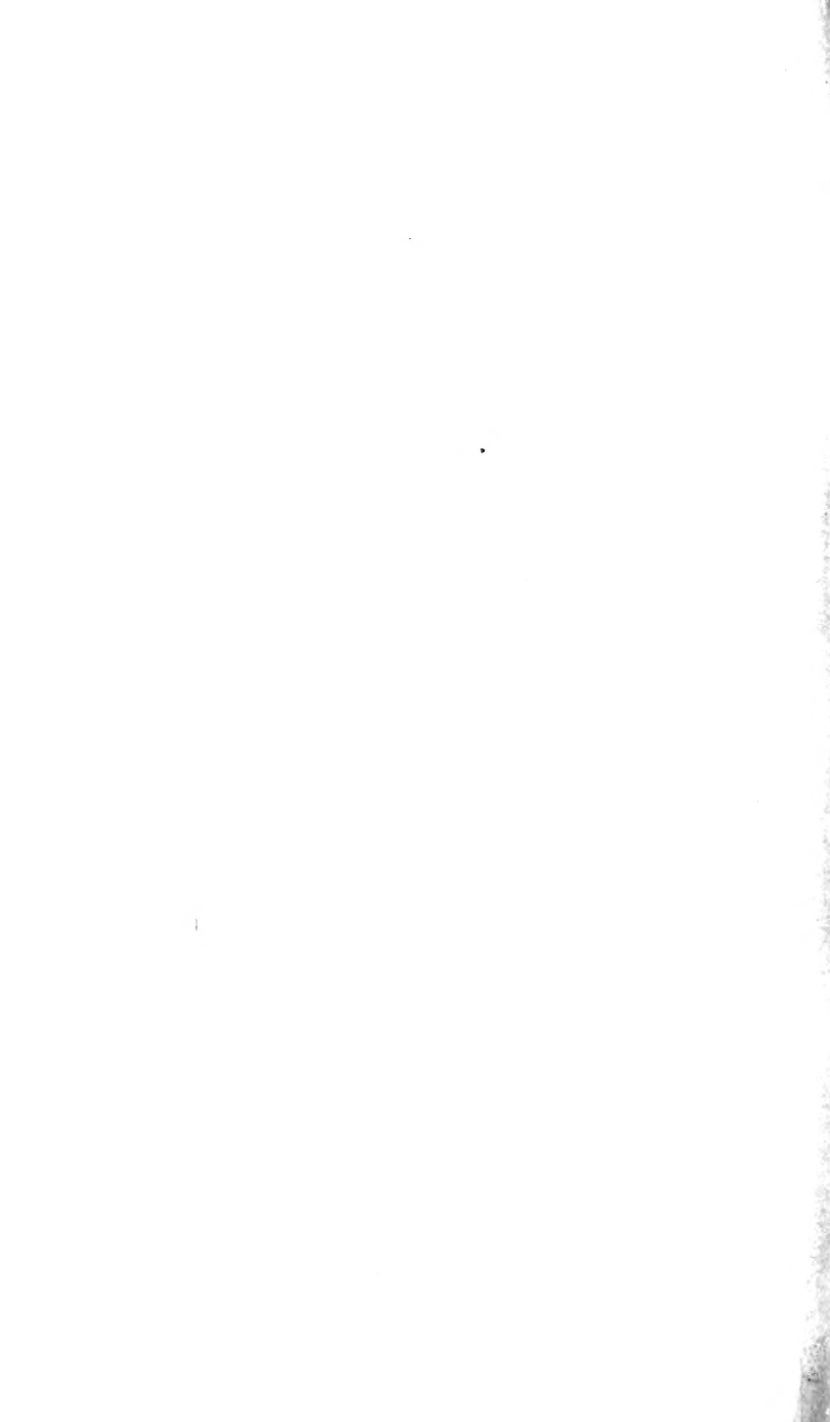
work, felt no benefit from it, the chances are that it always remains distasteful to him; he knows not whether the value of his labors could support him or not, and on discharge the only motive which made him work, namely force, being removed, he not unnaturally does not turn to that which has been his *punishment* for so many years. The reformatory system in Europe makes labor not simply a punishment, but also a privilege, a reward, a means of benefit to the man himself; this he sees, feels and proportionately appreciates.

I must now conclude, trusting I have shown that the treatment of criminals and the prevention of crime are measures which, deeply affecting the temporal and possibly the eternal interests of a large portion of the 200 millions of Her Majesty's subjects in India, are worthy of the attention and support of every Englishman who cares for the well-being of this great Empire, England's noblest possession, but to which attaches the very gravest responsibility. May the Almighty cause the hearts of many to take deep interest in this important subject; and may England be the highly honored instrument in His hands of doing much good to the numbers in this land, who, buried in ignorance, and in the degrading superstitions of paganism and of false religions, have not the light of His truth, nor the advantages of a higher civilization, restraining them from evil practices, and inclining them to good.

FINIS.









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